S. Hrg. 100-1057

THE CRIMINAL AND JUVENILE JUSTICE PARTNERSHIP ACT OF 1987

HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

AND ITS

SUBCOMMITTEE ON
COURTS AND ADMINISTRATIVE PRACTICE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

S. 1250

A BILL TO STRENGTHEN THE CRIMINAL JUSTICE PARTNERSHIP BETWEEN THE STATES AND THE FEDERAL GOVERNMENT

MARCH 10, 1988—CLEVELAND, OH

APRIL 25, 1988—TUCSON, AZ

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THE CRIMINAL AND JUVENILE JUSTICE PARTNERSHIP ACT OF 1987

THURSDAY, MARCH 10, 1988

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Cleveland, OH.

The committee met, pursuant to notice, at 9:00 a.m., in the Justice Center, Cleveland OH, Hon. Howard M. Metzenbaum (acting chairman) presiding.

OPENING STATEMENT OF SENATOR METZENBAUM

Senator **METZENBAUM**. This meeting will come to order.

This is an official hearing of the Judiciary Committee, a field hearing on reauthorization of programs to provide Federal assistance to State and local law enforcement and reauthorization of the Juvenile Justice and Delinquency Prevention Program.

Government has no more important responsibility than protecting the safety and security of its citizens. Providing for a strong national defense is a priority for me, and every member of Congress. But protecting us from attack by a foreign power is only half of the job—the American people deserve safe homes, safe neighborhoods and safe streets.

In 1984, according to the Governor's Office of Criminal Justice Services, the people of Ohio worried more about crime than they did about losing a job, having a car accident or becoming seriously ill.

I know local law enforcement officials and community groups here today have been working very hard to fight crime but you can't do the whole job alone, and you shouldn't have to. The Federal Government has a leadership role to play. That is why Congress passed legislation in 1984 establishing the Bureau of Justice Assistance. The Bureau works with State and local governments to fund and develop innovative programs targeted at violent crime.

In its first 2 years the Bureau made $100 million available for a variety of successful programs. $8 million, for example, is going to neighborhood crime prevention programs like Neighborhood Watch.

Despite the popularity of the Bureau with law enforcement and its proven success, the administration opposed funding this anticrime program in 1988, and has just announced its opposition to funding it next year. One has difficulty in understanding that in view of the fact that I have in my possession an article written by

Ed Meese, the Attorney General of the United States, lauding this very program and saying how effective it has been.

Under this attack by the Justice Department, Justice Assistance monies available this year have fallen to $6 million. The sad truth is that while we have a Justice Department that talks long and loudly about law and order, it has refused to put its money where its mouth is.

Luckily for the American people, Federal crime fighting efforts do not start and end with the administration. Senator Biden has introduced a bill that I have cosponsored to reauthorize the Bureau of Justice Assistance for four more years. This same bill, S. 1250, would also reauthorize the Juvenile Justice and Delinquency Prevention Act, the Runaway and Homeless Youth Act, the Victims of Crime Compensation Program, the Drug Enforcement Grant Program, and it would increase and extend the Public Safety Officers' Death Benefits Program.

Passing this legislation and ensuring that these programs are adequately funded are personal priorities of mine for the coming months. To help me do that, I would like each of our witnesses today to tell me what suggestions and recommendations they have. Together, we can make sure that the Federal Government does its part in making our streets and our neighborhoods safe for our families.

I will place the text of S. 1250 in the record at this point.

[S. 1250 follows:]

II

100TH CONGRESS
1ST SESSION

S. 1250

To strengthen the criminal justice partnership between the States and the Federal Government.

IN THE SENATE OF THE UNITED STATES

MAY 20 (legislative day, MAY 13), 1987

Mr. BIDEN (for himself, Mr. KENNEDY, Mr. METZENBAUM, Mr. DECONCINI, Mr. LEAHY, Mr. HEFLIN, Mr. SIMON, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To strengthen the criminal justice partnership between the States and the Federal Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal and Juvenile Justice Partnership Act of 1987".

TITLE I—DRUG LAW ENFORCEMENT

SEC. 101. DRUG GRANT REAUTHORIZATION.

(a) REAUTHORIZATION.—Section 1001(a)(6) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(6)) is amended to read as follows:

"(6) There are authorized to be appropriated $230,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out programs under part M of this title.".

(b) LIMITATION ON DISTRIBUTION.—Section 1305 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796l) is amended by adding at the end thereof the following new subsection:

"(e) No funds may be provided under this part to a grant recipient for a program or project for which funds have been provided under this part for four years (in the aggregate), including any period occurring before the effective date of this part.".

SEC. 102. COORDINATION WITH STATE AND LOCAL EDUCATION, PREVENTION AND TREATMENT PROGRAMS.

(a) APPLICATION TO INCLUDE A DETAILED PLAN.—Section 1303 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796j), is amended by—

(1) adding a new paragraph (2) as follows:

"(2) a detailed plan for coordinating the programs to be funded under this part with federally funded State and local drug abuse education, prevention, research, and treatment programs;"; and

(2) redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively.

(b) ALLOCATION OF FUNDS.—Section 1305 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796l) is amended by adding at the end thereof the following new subsection:

"(f) In allocating funds under this part, the Director shall ensure proper coordination with officials from all Federal agencies authorized to provide funding to State and local drug abuse education, prevention, research, and treatment programs. This coordination shall include a review of the State coordination plan required under subsection (a)(2) of section 1303.".

(c) REPORTS.—Subsection (b) of section 1306 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796m(b)) is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph 3 and inserting "; and"; and

(3) adding at the end thereof the following new paragraph:

"(4) a detailed summary of steps taken by each State, and by the Bureau, to ensure that any funds allocated under this part are fully coordinated and integrated with Federal programs providing assistance to State and local drug abuse education, prevention, research, and treatment programs.".

SEC. 103. TECHNICAL ASSISTANCE AND TRAINING.

Section 1302 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) striking out "and" after the semicolon in clause (6);

(2) striking out the period at the end of clause (7) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new clause:

"(8) provide technical assistance and training for the programs and purposes described in clauses (1) through (7).".

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Justice and Delinquency Prevention Act Reauthorization

SEC. 201. AMENDMENT TO JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.

The first sentence of section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended by striking "1985, 1986, 1987, and 1988" and inserting "1988, 1989, 1990, 1991, and 1992".

Subtitle B—Runaway and Homeless Youth Act Reauthorization

SEC. 211. RUNAWAY AND HOMELESS YOUTH ACT AMENDMENTS.

Section 331(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)) is amended by striking out "1985, 1986, 1987, and 1988", and inserting "1987, 1988, 1989, 1990, 1991, and 1992".

Subtitle C—Missing Children's Assistance Act Reauthorization

SEC. 221. AMENDMENT TO MISSING CHILDREN'S ASSISTANCE ACT.

Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended by—

(1) striking "$10,000,000 for fiscal year 1985, and"; and

(2) striking "1986, 1987, and 1988" and inserting "1987, 1988, 1989, 1990, 1991, and 1992".

TITLE III—LAW ENFORCEMENT

Subtitle A—Justice Assistance Act Reauthorization

SEC. 301. JUSTICE ASSISTANCE ACT REAUTHORIZATION.

Section 1001 of part J of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3793) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a)(1) There are authorized to be appropriated $20,300,000 for fiscal year 1988, $22,500,000 for fiscal years 1989 and 1990, and $24,500,000 for fiscal years 1991 and 1992 to carry out the functions of the Bureau of Justice Statistics.

"(2) There are authorized to be appropriated $22,100,000 for fiscal year 1988, and $24,000,000 for fiscal years 1989, 1990, 1991, and 1992 to carry out the functions of the National Institute of Justice.

"(3) There are authorized to be appropriated $60,000,000 for fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out the functions of the Bureau of Justice Assistance, other than functions under parts F, G, and L of this title.

"(4) There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out the remaining functions of the Office of Justice Programs, other than functions under parts D, F, G, L, and M of this title.

"(5) There are authorized to be appropriated such sums as are necessary for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out part L of this title.

"(6) There are authorized to be appropriated $230,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out programs under part M of this title.

"(7) Funds appropriated for any fiscal year may remain available for obligation until expended.

"(b) Notwithstanding any other provision of law, no funds appropriated under this section for parts D, E, and M may be transferred or reprogrammed for carrying out any activity which is not authorized under such parts.".

Subtitle B—Criminal and Juvenile Justice Family Violence Prevention Act of 1987

SEC. 311. SHORT TITLE.

This subtitle may be cited as the "Criminal and Juvenile Justice Family Violence Prevention Act of 1987".

SEC. 312. STRENGTHENING CURRENT LAW.

Section 403(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3743(a)) is amended by—

(1) redesignating paragraphs (17) and (18) as paragraphs (18) and (19), respectively; and

(2) adding after paragraph (16) the following new paragraph:

"(17) improving the criminal justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly;".

SEC. 313. DATA COLLECTION AND REPORTING.

(a) FAMILY VIOLENCE REPORTING.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall require, and include in uniform crime reports, data that indicates—

(1) the age of the victim; and

(2) the relationship of the victim to the offender, for crimes of murder, aggravated assault, simple assault, rape, sexual offenses, and offenses against children.

(b) NATIONAL CRIME SURVEY.—The Director of the Bureau of Justice Statistics, through the annual National Crime Survey, shall collect and publish data that more accurately measures the extent of domestic violence in America, especially the physical and sexual abuse of children and the elderly.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in fiscal years 1987, 1988, 1989, 1990, 1991, and 1992, such sums as are necessary to carry out the purposes of this section.

Subtitle C—Multijurisdiction Criminal Conspiracy Information and Targeting Grants

SEC. 321. MULTIJURISDICTION CRIMINAL CONSPIRACY INFORMATION AND TARGETING GRANTS.

(a) GRANT AUTHORIZED.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. et seq.) is amended—

(1) by redesignating part N as part O,

(2) by redesignating section 1401 as section 1501, and

(3) by inserting after part M the following new part:

"PART N—MULTIJURISDICTION CRIMINAL CONSPIRACY INFORMATION AND TARGETING GRANTS

"SEC. 1401. CRIMINAL CONSPIRACY INFORMATION AND TARGETING GRANTS

"(a) The Director is authorized to make grants to State and local criminal justice agencies for the purposes of identifying, targeting, and removing criminal conspiracies and activities spanning jurisdictional boundaries.

"(b) Grants awarded under this part shall be made for—

"(1) maintaining and operating information sharing systems that are responsive to the needs of participating enforcement agencies in addressing multi-jurisdictional offenses and conspiracies, and that are capable of providing controlled input, dissemination, rapid retrieval, and systematized updating of information to authorized agencies;

"(2) establishing and operating an analytical component to assist participating agencies and projects in the compilation, interpretation, and presentation of information provided to a project;

"(3) establishing and maintaining a telecommunications system designed to directly support the operation of the information sharing and analytical programs in clauses (1) and (2); and

"(4) other programs designated by the Director that are designed to further the purposes of this part.

"(c) The Director is authorized to promulgate such rules and regulations as are necessary to carry out the purposes of this section, including rules and regulations for submitting and reviewing applications.".

(b) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part N and section 1401, and inserting in lieu thereof the following new items:

"PART N—MULTIJURISDICTION CRIMINAL CONSPIRACY INFORMATION AND TARGETING GRANTS

"PART O—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1501. Continuation of rules, authorities, and proceedings.".

(c) FUNDING.—Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 4793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking out "and M" and inserting in lieu thereof "M, and N",

(B) by redesignating paragraph (7) as paragraph (8), and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) There are authorized to be appropriated $15,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out programs under part N of this title."; and

(2) in subsection (b) by striking out "and M" and inserting in lieu thereof ", (M), and (N)".

Subtitle D—Public Safety Officers' Death Benefits Improvement

SEC. 331. PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT.

(a) BASIC LEVEL OF DEATH BENEFIT PAYABLE.—Section 1201(a) of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796(a)) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000, adjusted in accordance with subsection (g)".

(b) ANNUAL ADJUSTMENT OF BENEFIT LEVEL.—Section 1201 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796) is amended by adding at the end thereof the following new subsections:

"(g) On October 1 of each fiscal year beginning after the effective date of this subsection, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a), to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

"(h) The amount payable under subsection (a) with respect to the death of a public safety officer shall be the amount payable under subsection (a) as of the date of death of such officer.".

(c) PARENTS AS BENEFICIARIES.—Section 1201(a)(4) of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

(d) TECHNICAL AMENDMENT.—Section 1203 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796) is amended by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7), as paragraphs (2), (3), (4), (5), and (6), respectively.

SEC. 332. NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY.

(a) PROGRAM AUTHORIZATION.—Part L of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3796) is amended by—

(1) redesignating sections 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) adding after section 1202 the following new section:

"NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY

"SEC. 1203. The Director is authorized and directed to use up to $150,000 of the funds appropriated for this part to establish national programs to assist the families of public safety officers who have died in the line of duty.".

(b) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) redesignating the items for section 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) inserting after section 1203 the following:

"Sec. 1203. National and regional program for families of public safety officers who have died in the line of duty.".

Subtitle E—Criminal Justice Information Improvement

SEC. 341. SHORT TITLE.

This subtitle may be cited as the "Criminal Justice Information Improvement Act of 1987".

SEC. 342. CRIMINAL JUSTICE INFORMATION.

(a) GRANT AUTHORIZED.—Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731–3735) is amended by adding at the end thereof the following new section:

"GRANTS TO IMPROVE CRIMINAL JUSTICE INFORMATION

"SEC. 305. (a) With funds appropriated under section 1001(a)(7) of this title, the Director shall establish and carry out a program to make grants to States and units of local government to improve the accuracy, timeliness, or completeness of criminal justice information compiled and maintained by State and local criminal justice agencies. Under such program, grants may be made to develop, establish, or enhance—

"(1) uniform documents, forms, and procedures for reporting of arrests and dispositions;

"(2) an editing and verification system in order to identify errors and other inappropriate information;

"(3) a tracking system to match arrest and charge entries with dispositions;

"(4) a delinquent disposition monitoring system to identify aged entries;

"(5) a capability to audit information systems for the accuracy, timeliness, or completeness of criminal justice information;

"(6) an error notification system to facilitate the exchange of updated or corrected criminal justice information among criminal justice agencies;

"(7) a capability to query the appropriate State central repository or source agency before disseminating criminal justice information;

"(8) a transaction log system to record and describe the instances of criminal justice information dissemination;

"(9) automated criminal justice information systems to improve the accuracy, timeliness, or completeness of criminal justice information;

"(10) communications with the courts and other parts of the criminal justice system in order to maximize the reporting of disposition and other data;

"(11) initiatives to ensure that information is collected, used, or released only on the basis of positive identification of the record subject;

"(12) programs for verification, validation, and purging of information that is no longer accurate or timely; or

"(13) such other programs that, as determined by the Director, can reasonably be expected to produce improvements in the accuracy, timeliness, or completeness of criminal justice information.

"(b) No grant may be made under subsection (a) to an applicant unless the application for such grant—

"(1) contains a detailed summary of the results of an audit of the component or aspect of the criminal justice information system for which the grant is being sought;

"(2) identifies each of the activities specified in subsection (a) for which such grant will be expended and describes in detail how such activities will be carried out;

"(3) specifies with respect to the component or aspect of the criminal justice information system for which the grant is being sought, numeric goals of accuracy, timeliness, or completeness that will be achieved as a result of carrying out such activities and the period of time, but not more than 2 years, within which such goals will be achieved;

"(4) provides an assurance that such applicant will conduct an audit, at the applicant's expense, to determine whether the goals established pursuant to paragraph (3) have been achieved; and

"(5) identifies the State or local agency, as the case may be, that will be responsible for administering such grant.

"(c) Any State or unit of local government that—

"(1) receives a grant under subsection (a); and

"(2) fails to achieve each goal of accuracy, timeliness, or completeness specified in the application for such grant, as required by subsection (b)(3), within the period to which such goal applies;

is ineligible to receive any other grant under subsection (a) unless the Director determines that the failure to achieve such goal was caused by circumstances beyond the control of the State or unit of local government involved.".

(b) TECHNICAL AMENDMENTS.—Section 303 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3733) is amended—

(1) by striking out "A grant" and inserting in lieu thereof "(a) Except as provided in subsection (b), a grant" after "Sec. 303.", and

(2) by adding at the end the following:

"(b) From 80 per centum of the funds appropriated for a fiscal year to carry out section 305, each grant may be up to 50 per centum of the total cost of the project for which such grant is made. The amount expended by the grant applicant to conduct the audit required by section 305(b)(1) shall be treated as a part of the cost of such project paid by such applicant.".

SEC. 343. DEFINITIONS.

Section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended—

(1) in paragraph (20) by striking out "and" at the end thereof,

(2) in paragraph (21) by striking out the period at the end thereof and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(22) 'criminal justice agency' means an agency that carries out criminal justice; and

"(23) 'criminal justice information' means—

"(A) criminal history information;

"(B) records and related data contained in an automated or manual system, compiled by criminal justice agencies, regarding arrest warrants; and

"(C) records and related data contained in an automated or manual system, compiled by criminal justice agencies, regarding stolen motor vehicles.".

SEC. 344. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by sections 301 and 302 of this Act, is amended—

(1) in paragraph (1) by inserting "(other than section 305)" after "functions",

(2) by redesignating paragraph (8) as paragraph (9), and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) There is authorized to be appropriated $5,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992 to carry out section 305 of this title.".

SEC. 345. TECHNICAL AMENDMENT.

The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Grants to improve criminal justice information.".

Subtitle F—College and Railroad Police Information

SEC. 351. COLLEGE AND RAILROAD POLICE INFORMATION.

Section 534 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of this section, the term 'other institutions' includes—

"(1) railroad police departments which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice; and

"(2) police departments of private colleges or universities which perform the administration of criminal justice pursuant to a State statute and which allocate a substantial part of their annual budget to the administration of criminal justice.".

Subtitle G—The Racial and Religious Violence Information

SEC. 361. THE RACIAL AND RELIGIOUS VIOLENCE INFORMATION.

Under the authority of section 534 of title 28, United States Code, the Attorney General shall collect and publish, as part of the uniform crime reports, information regarding the incidence of the following offenses:

(1) Robbery, burglary, theft, arson, vandalism, trespass, or any other offense involving property which symbolizes, or is customarily used in the performance of a religious activity or the achievement of a religious purpose.

(2) Homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, or any other offense committed to manifestly express racial, ethnic, or religious prejudice.

Subtitle H—Victim Compensation and Assistance

SEC. 371. VICTIMS OF CRIME ACT OF 1984 AMENDMENT.

Paragraph (2) of subsection (c) of section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1992.".

TITLE IV—ASSISTANCE TO STATE AND LOCAL COURTS

SEC. 401. STATE JUSTICE INSTITUTE REAUTHORIZATION.

Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"AUTHORIZATIONS

"SEC. 215. There are authorized to be appropriated $15 million for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, 1991, and 1992 to carry out the purposes of this chapter.".

TITLE V—NATIONAL ACADEMY OF SCIENCES

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in the past 10 years, the Federal Government, along with State and local governments, has increased the level of resources devoted to law enforcement and drug control programs, with no apparent effect on the levels of crime or drug abuse;

(2) the United States Government does not have a long term, comprehensive strategy to combat drug abuse and related criminal activity;

(3) the Federal Government should enter into a long-term partnership with State and local governments to decrease the level of drug abuse and related criminal activity;

(4) such a partnership should explicitly recognize that State and local governments bear the primary responsibility for criminal justice initiatives, while the

Federal Government bears primary responsibility for drug control; and

(5) the United States Government should codify this partnership as part of a long term, comprehensive strategy for decreasing the level of drug abuse and associated criminal activity that would guide the efforts of the Federal, State and local governments into the next decade.

(b) PURPOSE.—The purpose of the study authorized by this title is to provide an analysis of the effectiveness of programs to reduce violent and property crime associated with drug trafficking in America. The results of this study should assist policymakers in formulating the State and local component of the national strategy for decreasing the level of drug abuse and associated criminal activity in America.

SEC. 502. NATIONAL ACADEMY OF SCIENCES STUDY.

(a) STUDY AUTHORIZED.—The Attorney General, acting through the Director of the National Institute of Justice, shall provide for a study of policies and programs at the State and local levels to reduce violent and property crime by drug users. The policies and programs to be studies shall include—

(1) community-wide programs to discourage drug use and to disrupt drug distribution networks;

(2) criminal justice agency policies concerning the classification and disposition of cases involving violent and property crimes committed by drug users;

(3) mandatory requirements for arrested or convicted violent and property offenders who have been identified as drug users; and

(4) initiatives designed to coordinate the policies and programs listed in clauses (1), (2), and (3) with—

(A) State and local drug demand reduction agencies and programs; and

(B) Federal law enforcement agencies and programs.

(b) NATIONAL ACADEMY OF SCIENCES TO CONDUCT STUDY.—The Director of the National Institute of Justice is authorized to enter into a contract with the National Academy of Sciences to conduct the study described in subsection (a). Such contract shall provide that—

(1) the actual expenses incurred by the Academy in conducting the study shall be paid by the Institute; and

(2) the Academy shall report to the President and to the Congress on the results of the study no later than 18 months after the contract is signed.

(c) FUNDING.—There are authorized to be appropriated $1,000,000 to conduct the study authorized by this title, with funds to remain available until expended.

Senator **Metzenbaum**. The first witness that I have scheduled, I'm not sure that he is here. Is Mr. Joseph D. Whitley, Deputy Assistant Attorney General of the Criminal Division, U.S. Department of Justice here?

Perhaps he hasn't arrived yet but that, perhaps, helps us in another respect because the very distinguished Judge Burt W. Griffin, the Calvert County Court of Common Pleas and co-chairman of the Task Force on Violence, I know is here, and I know he indicated he had a court hearing at an early hour this morning.

If Mr. David Schroot, Director of the Governor's Office of Criminal Justice Services, and Kenneth Rocco, Administrative Judge of Cuyahoga County Juvenile Court, if they are here with me; but I know that Judge Griffin is here and if the others aren't, when they arrive, we will be very happy to hear from them.

We have a full list of witnesses today and if it is not too inconvenient, we would ask our witnesses to confine themselves to 5 minutes. We are happy to see all of you here.

Let me be certain that Joseph Whitley is not here in the audience.

(No response.)

Thank you very much.

Judge Griffin, not on the basis of seniority, or title or anything, but because you've got a court hearing at 9:30, I hope that Ken Rocco and Mr. Schroot will be good enough to yield to you for that purpose.

STATEMENT OF THE HON. BURT W. GRIFFIN, JUDGE, COURT OF COMMON PLEAS, JUSTICE CENTER, CLEVELAND, OH

Judge **Griffin**. Senator Metzenbaum, let me thank you and my good friend and colleague, Judge Rocco, for the opportunity to come here first.

I am appearing this morning on behalf of the Task Force on Violent Crime which is a coalition of public officials and private citizens, formed approximately 7 years ago to attempt to reduce the high level of homicides, serious assaults, robberies and rapes that were then existing in the greater Cleveland area. Judge Rocco is one of the very active members of our organization.

We have been fortunate to be the beneficiaries of assistance from the Juvenile Justice Delinquency and Prevention Act and the Justice Assistance Act. These funds have been used to support two projects, one called a Youth Resource Center Project, and the other called a Concentrated Crime Prevention Area Project.

The Youth Resource Center Project has received an investment of approximately $20,000 in Juvenile Justice Delinquency Prevention Act funds, and it has been used to trigger a local investment of $171,055. I want to point out in both of these that the leveraging or multiplier effect of this money has been, I think, quite significant.

Senator **Metzenbaum**. Where does the bulk of that money come from, Judge Griffin?

Judge **Griffin**. It has come from the police department, from the Public Housing Authority and from various in-kind contributions. Actually, I'm addressing—I should shift over. I'm now talking about the Youth Resource Center money. That has come from organizations like the Neighborhood Centers Association; Judge Rocco's organization, the Juvenile Court; the Cleveland School System. That's the $171,055. We value the contributions that have been made by employees of these agencies who have been able to work full time on the Youth Resource Center Project.

The concentrated Crime Prevention Area Project involves a heavy commitment from the Public Housing Authority, from the Cleveland Police Department, and from neighborhood residents, which I will describe in a minute.

I would like to address first the Youth Resource Center Project which is operating in seven of Cleveland's intermediate schools. These were formerly known as junior high schools, but they are now only seventh and eighth graders.

In each of these seven junior high schools, we have made an effort to identify 75 what we will call high risk, at-risk young people who have either been in trouble already with the Juvenile Court or have indicated such problems in school that there is a high likelihood that they will be in trouble because of misbehavior while either in school or outside of school.

The $20,000 investment from the Juvenile Justice Delinquency Prevention Act has been used, coupled with other private monies, to hire seven part time coordinators, a person working half time in each of these schools, to marshal assistance from agencies such as the Neighborhood Centers Association, local mental health agencies, tutoring programs and what-not, so that outside resources can be combined with city school system resources to focus on the 75 children in each of these junior high schools. We're talking about approximately 525 kids, then, that are the beneficiaries of this program.

We have a lot of anecdotal evidence, which I think is good evidence, of the success of this program. One young girl who was interviewed by the Cleveland Plain Dealer in connection with this project said that the program had turned her life around, that she had had no interest in school until the people who were involved in the Youth Resource Center began to pay some attention to her.

At the Central Intermediate School, which formerly was called Central Junior High School, the principal of that school has absolutely rave recommendations to make for this program. He says it has changed his entire ability to manage the school. His personal attitude is one that changed from great pessimism about handling the problems in that school to one of very great optimism.

One of the interesting projects that is now functioning out of Central Intermediate School was made possible by the second source of Federal funding, the Justice Assistance Act funding. The Central Intermediate School is located in what we have identified and are calling our Concentrated Crime Prevention Area. This is an area from East 17th Street to East 79th Street, from Chester, south of the RTA tracks. In any particular year over the last few years, although it's got about 4 percent of the population in the city, it's had about 20 percent of the homicides.

We have been able to hire, through Justice Assistance Act money, a coordinator who has brought together a number of programs, including the organizing of a truancy sweep out of Central Intermediate School. He has, by working with the Cleveland police, CMHA Police, and school truancy or attendance officers, has developed a program where about twice a month, on an unannounced basis, these individuals work together to go out and find kids who aren't in school.

It has had a tremendous impact on the general level of truancy in that school and also on the behavior of the kids. The kids are brought back to the Youth Resource Center, they are plugged in with the other people who have been made possible through the Juvenile Justice and Delinquency Prevention Act.

We are very grateful for this assistance, and I appreciate the opportunity to be here.

Senator METZENBAUM. Judge, just one question. On a scale of one to 10, talking about worthwhile expenditure of dollars, how would you rate the money being spent by the Federal Government in this area, as compared to——

Judge GRIFFIN. You are talking about these two particular programs?

Senator METZENBAUM. No. I am talking about the general programs with respect to which your task force is involved, which have been partially funded from.

Judge GRIFFIN. Well, it, frankly, has been indispensible because we have been able to use this money to trigger other monies and really put local efforts together that could not have been brought together without this—this kind cement, kind of glue that brings everybody together. For all of our programs, the multiplier effect is about four to one. It happens to be very high in these two programs because of the ability to bring so many other institutional resources together.

But if we didn't have the money to bring in these—to pay for what are a new kind of individual coordinators who work with Judge Rocco's people, with the police department, with the school officials, there would be no way to bring these disparate institutions together.

So we think this has been a tremendously effective program, and I think it would be a great setback to us if this program were cut out. I hope you are successful in keeping this program alive.

Senator METZENBAUM. I feel optimistic that we will, but I can't say for certain.

[Prepared statement follows:]

Remarks
of
Judge Burt W. Griffin

Thank you for the opportunity to describe the importance that funding from the Juvenile Justice Delinquency Prevention Act and the Justice Assistance Act have had for the work of the Task Force on Violent Crime.

Juvenile Justice Delinquency Prevention Act money has been used by the Task Force in each of seven City of Cleveland intermediate schools to pay for coordinators of social service and educational support to delinquent and pre-delinquent youth. These coordinators are to assist seventh and eighth graders who have either been before the Juvenile Court or have posed serious behavior problems in school. In each of the seven schools, at the beginning of the school year, 75 "At Risk" youth were identified for this special attention. That is a total of 450 students -- many of whom are considerably older than the normal seventh or eighth grader.

The school system, using its own money, has added seven coordinators of school system resources. These coordinators then bring teachers, tutors, yough workers, mental health professionals, county welfare case workers, probation officers, and police officers into a team effort to focus special attention on each of these 450 children. The project is called the Youth Resource Center Project.

The results have been gratifying. Attendance has improved, delinquency has been reduced, and academic achieved has increased. One girl, participating in the Youth Resource Center program, recently told an interviewer that the team effort had turned her life around -- had given her for the first time a positive attitude toward school. A school principal in one of Cleveland's most impoverished neighborhoods, has described the Youth Resource Center project as making a fundamental change in the atmosphere of his school and has given him a sense of hopefulness for educational success that he had not previously had.

In the next school year, the Youth Resource Center project will be extended to at least two more intermediate schools in Cleveland. Our goal is to make the program available to all intermediate schools in the Cleveland School System by 1990.

A second project of the Task Force on Violent Crime, funded through Justice Assistance Act, functions in Cleveland's highest crime area -- the area from East 17th to East 79th and from Chester Avenue south to the RTA tracks. We call this the Concentrated Crime Prevention Area. The Justice Assistance Act money has been used to hire a full-time neighborhood organizer to attempt to reduce homicides, rape, robbery, and serious assaults. Since the program began there has been an approximately 20% reduction of serious crime in the area. That reduction has been approximately 25% better than the overall reduction of crime in the city as a whole.

The crime reduction has been accomplished through a number of organizing efforts by the two staff persons. They have helped create four police ministations in the area with two beat policemen assigned to each station and from 10 to 25 volunteer police auxiliary members recruited from the neighborhood. This results not only in greater police visibility but much closer cooperation of residents in reporting crime.

The efforts of the organizers have also produced a new tough law against street prostitution which has virtually eliminated open prostitution in the area. Elimination of open prostitution has brought a sharp reduction in drug trafficking and homicides.

The federally-funded staff have also organized twice monthly, unannounced truancy sweeps from the intermediate school serving the area. These truancy sweeps have returned over 200 youths to school. Taking truants off the streets reduces drug trafficking and burglary. The youths are then returned to the Youth Resource Center at the school where they get close attention and supportive services.

A drug enforcement task force has also been created by the organizers which has brought together the police, judges, and prosecutors in a joint effort to secure more effective drug enforcement.

Overall the primary result of each of these projects -- the Youth Resource Centers and the Concentrated Crime Prevention Area -- has been to make possible the coordination of citizen volunteers, police, court personnel, educators, and social service workers by a concerted effort to reduce violent crime. By creating a cooperative effort of both police and non-police personnel, law enforcement is strengthened and rehabilitative help is brought to bear upon potential offenders.

The federal financial investment has been the catalyst to maintaining those local resources. The multiplier effect of the federal investment has been subsequently continued to the Youth Resource Centers. For example, $20,000 of JJDP money has produced a local investment valued at $171,055. Seventeen Thousand Thirty Two Dollars ($17,032.00) of Justice Assistance Act money invested in the Concentrated Crime Prevention Area has triggered a local investment of $497,568 in cash and contributed services.

Without the federal investment, none of these local contributions would have occurred.

We wish to thank Congress for this assistance.

Senator Metzenbaum. Judge Rocco, we are very pleased to have you with us this morning. You have certainly made your mark in this community with a very distinguished record as the Administrative Judge at the Juvenile Court. We are happy to have you this morning.

STATEMENT OF THE HON. KENNETH A. ROCCO, ADMINISTRATIVE JUDGE, CUYAHOGA COUNTY JUVENILE COURT, CLEVELAND OH

Judge Rocco. Thank you very much, Senator Metzenbaum.

I am grateful to appear this morning on behalf of the Court, and particularly grateful that Cleveland was selected as a site for a field hearing of the Senate Judiciary Committee on this important issue for reason that one of the first juvenile courts in this country was established in Cleveland in 1902.

Since July of 1986, the Juvenile Court in Cleveland has been operating a state of the art, risk-based classification system of probation supervision. The centerpiece of the new system is a risk predictor or a risk assessment instrument; its focus is the concentration of supervision resources on those youth who are predicted to be likely chronic offenders.

The Cleveland Court is the largest juvenile court in the country to utilize a risk-based system; no other juvenile court in the country has committed greater resources to the intensive supervision of likely chronic offenders.

The evidence to date is that the new system has been successful in reducing new offense recidivism in likely juvenile chronic offenders. Our new offense recidivism rate, determined longitudinally, is 16 percent. That compares rather favorably to a 65 percent new offense recidivism rate that was determined in a 16-month tracking study of juvenile probationers in this county with the same high-risk characteristics who were on probation in 1984.

Now, the comparison is not exactly McIntosh apples with McIntosh apples because there are differences between a longitudinal recidivism and a tracking recidivism.

Senator Metzenbaum. Give me those figures again.

Judge Rocco. Since the beginning of the program, the new offense recidivism rate is 16 percent. The court focuses on new offenses rather than probation violations for a number of different reasons. First, likely chronic offenders are seen twice a day, 7 days a week. Probation officers are more likely to discount violations of probation rules than they would under the old system under which youth were contacted only once a month. But our focus is on new offenses. Our principal concern is juvenile crime and its impact on the community rather than rule violations.

The 16 month tracking recidivism study followed 363 cases for 16 months. The comparison is not exact in that longitudinal recidivism reflects all cases from the beginning of the program. A study is being done for the court presently, and we will soon have an exact comparison.

Senator Metzenbaum. When that is available, we will be pleased to include it for the record, if the record is still open at that time.

Judge Rocco. It should be available within the next month; and I will submit it then to your office.

Senator **Metzenbaum**. Thank you.

Judge Rocco. The court, in 1987, which was the first full year the new system operated—it operated half of 1986 and all of 1987—experienced a 7 percent reduction in delinquency complaints. There were 350 fewer delinquency complaints than in 1986. I would attribute, in part, the reduction to the success of intensively supervising those youth who are most likely to re-offend.

During the past 2 years, the Juvenile Court has operated on a tight, no-frills budget. The Court spent fewer general fund dollars in 1986 than it did in 1986; and then in 1987, it spent fewer general fund dollars than it did in 1986. There simply was no money in our budget, either the 1986 budget or the 1987 budget, to conduct the preliminary research and to pay for the planning and development that went into our new probation system.

But for a 1986 grant of $63,000 to our Court from Federal Juvenile Justice and Delinquency Prevention Block Grant Funds to the State of Ohio, the necessary research, planning and development simply would not have occurred. As a matter of fact, there probably would not have been enough money locally until later this year to do the research and planning. So the $63,000 grant from the Federal funds was critical to our timely implementation program and, I think in large measure, can be given credit for whatever success we have achieved.

I certainly would urge that, for this reason and many others, the Judiciary Committee reauthorize this kind of funding assistance to States and localities in the area of delinquency prevention.

I would leave with the committee, and I have already left with the committee a report entitled Probation Classification Design and Development of the Cuyahoga County Juvenile Court Model. The report was submitted to the State Office on Criminal Justice Services, which was the conduit for the Federal funds to our court, and it describes in great detail the research and the development that was paid for by the $63,000 grant.

I appreciate this opportunity, Senator.

Senator **Metzenbaum**. Judge Rocco, I am very, very grateful to your for your support of the program, for your involvement in the community and what you are doing for the young people in this community and what the Juvenile Court is doing. We are pleased to have your support for the legislative reenactment which we hope to get out of committee, Judiciary Committee, in the not far distant future.

We are very happy to have Mr. Schroot, who I understand is a somewhat new appointee to this position, part of the Governor's Office of Criminal Justice Services, and I understand he has extensive experience in this area. So we are happy to welcome you here this morning, sir.

STATEMENT OF DAVID G. SCHROOT, DIRECTOR, GOVERNOR'S OFFICE OF CRIMINAL JUSTICE SERVICES, COLUMBUS, OH

Mr. **Schroot**. Thank you, Senator. I am glad to be here.

As you said, my name is David Schroot. I'm director of Governor Celeste's Office of Criminal Justice Service, and I'm appearing before you to explain the benefits that Ohio derives from the Justice Assistance Act and the Juvenile Justice and Delinquency Prevention Act, and also the impact that the elimination of those programs will have throughout the state.

The State of Ohio received its first Justice Assistance Block Grant totaling $2.2 million in September 1985. Since that time, funding has steadily decreased until being eliminated entirely in 1988, which is noted on the chart which I have submitted with written testimony.

This is the only Federal program that assists the entire criminal justice system and provides local government with the funds to attempt new programming. Ohio's plan has included, first, community crime prevention, with specialized services for the elderly. Crime prevention programs get citizens involved with local police agencies.

Funding of the Ohio Crime Prevention Association, for instance, provides training and technical assistance, benefitting over 200 communities, which has affected 3 to 4 million Ohioans, by the estimate of the association. In addition during 1987, the association trained over 500 crime prevention practitioners.

Second, victim witness assistance programs are funded. The victim, as you know, is often the forgotten person in our justice system. It can be a very dehumanizing experience to do the right thing and get involved because fears, needs and desires of the victim tend to be ignored by the emphasis on providing for the constitutional rights of the accused.

Victim witness programs deal very effectively with this problem.

Personal contact removes the mystery and the fear and creates willing and cooperative witnesses, those people without whom the system breaks down.

In Cuyahoga County, the Witness-Victim Service Center has served over 293 clients through their Elderly Victim Assistance Program. It teaches the elderly about safety and prevention, and legal personnel about the needs of elderly victims.

Third, prison and jail overcrowding. Ohio's prison system operates at 35 percent overcapacity. This means that we're currently holding 24,000 prisoners in space that was designed for 17,700. Clearly, programs have been needed at the state and local level to reduce the numbers entering our system.

Funding of the Prison Crowding Committee has resulted in the adoption of policies which will reduce the need for new prison beds by 2,000 by the year 1995. This will result in a cost savings to Ohio taxpayers of $140 million in construction costs alone.

Senator METZENBAUM. How will that be done? I missed that.

Mr. SCHROOT. The Prison Crowding Committee has been instrumental, Senator, in establishing legislative initiatives, changes in the code such as updated ways of counting good time and other early release provisions which will help to reduce some of the overcrowding in Ohio's institutions.

It's our estimate that those initiatives will lead to a 2,000 reduction by the year 1995 in the originally estimated number of those people who would be held in prison.

Senator METZENBAUM. Are you at all concerned that by the early releases that you may be returning more criminals to the streets?

Mr. SCHROOT. Well, we're talking about offenders who are committed to institutions for nonviolent offenses, mostly felonies of the third and fourth degree in Ohio. And with adequate supervision, with surveillance techniques, with work that's been done in the Department of Corrections through their Adult Parole Authority, it appears that we will be able to provide community services and the surveillance that is necessary to safely maintain a prison population and also help to reduce those numbers that are held.

Senator METZENBAUM. What's the rate of recidivism now, Mr. Schroot?

Mr. SCHROOT. I'm not aware of the current figure, Senator. It's always been fairly high in the adult system, with "fairly high" meaning somewhere in the neighborhood of 50 percent, probably.

Senator METZENBAUM. To what extent do we have any kind of rehab program in the prison system at the present time?

Mr. SCHROOT. The present system is doing I think the best job that is possible, given resources available in the State and the fact that their designed capacity is 35 percent less than the actual population in the institution. The short answer to that is we're warehousing a lot people in this State.

Senator METZENBAUM. To what extent are the prisoners that are incarcerated in Ohio given any program to make them better citizens, better members of society when they come out of the penitentiary? What percentage of the prisoners are involved in active work programs while in prison?

Mr. SCHROOT. I'm unaware of the percentage of people participating. I can tell you that there is a wide variety of programs that are available for Ohio's prison population. But there are so many people in the institutions and the funds to provide those services are so limited in the State, that there is a waiting list for virtually every program that exists.

Senator METZENBAUM. Give me an example of the kinds of programs that there are.

Mr. SCHROOT. Well, the penal industries, for instance, teaches job skills that can translate into private sector activities. You may be aware—they built most of the furniture, for instance, that's used in State offices. The work habits that can be developed in that kind of a situation better prepares someone to fend for himself on the outside.

There are cooperative arrangements with universities around the State to provide advanced degrees for some people who are capable of doing college work, with the idea being that with a better academic background, either an associate degree or, in some cases, an advanced degree, that people can better fend for themselves when they return to the community.

There are, of course, counseling services that are available to work with prison inmates and also with their families. The Adult Parole Authority provides services through community activities, once people are actually released, to try to help folks make the transition that is necessary.

One of the most important services that I think we can provide to that population is available in every community in this State, and that is AA. The incidence of alcoholism and substance abuse among populations, both juvenile and adult, that are incarcerated in Ohio, as in any State, is extremely high. Those community service work, and the partnership between the state and agencies like AA and NA, is something that has proven to be productive in the past and needs to be expanded in the future.

Senator METZENBAUM. I have been concerned that both at the Federal and the State level, there has not been enough opportunity to participate in work programs so that when they come out of prison they are able to do something.

I remember a visit I made in China. I had great difficulty getting into the prison. But I was very much impressed, when I got in, to see the kind of work that they were doing and how active they were. I had the feeling that I would see very little of that in American prisons.

What about—you say there is a Penitentiary Industries Board or something?

Mr. SCHROOT. Ohio Penal Industries.

Senator METZENBAUM. How many people can that accommodate? How many does it accommodate?

Mr. SCHROOT. I would hate to give you a number because—let me explain something. My background, before coming to this office, was in the juvenile justice system. It's been about 15 years since I've worked in adult corrections, and I'm simply not aware of the current number that's employed in Ohio Penal Industries in Ohio. I can obtain that for you easily.

Senator METZENBAUM. I would be interested, Mr. Schroot.

Mr. SCHROOT. I can tell you that it is not a significant percentage of the total prison population.

Senator METZENBAUM. Well, I would hope that you might provide some leadership and direction in that area, both for juveniles as well as adults. I myself feel that merely incarcerating individuals doesn't solve much of a problem because they come out and just return to the streets, to the same kind of activities that caused them to go in in the first instance.

Mr. SCHROOT. One of the things that we're funding, Senator, with the Juvenile Justice and Delinquency Prevention money, are initiatives at the Department of Youth Services, to help to deal with crowded situations in their institutions. We are providing community services, such as residential placement and intensive probation for youth who otherwise would have been committed to the Department of Youth Services. If these initiatives, which are currently experimental, prove to be successful—they are serving 170 kids right now in three counties in Ohio.

If those experimental programs prove successful, we are looking at the possibility of the State saving approximately $3.6 million in institutional costs. It would be my feeling that those funds could be used to provide more comprehensive programming at the community level, where it has a better chance of working.

If we can keep kids out of institutions and we can provide services that support schools and families through cooperative efforts of mental health agencies and juvenile courts, we have a chance of breaking the cycle of crime and keeping kids from advancing from the juvenile system into the adult system. That, I think, holds some promise.

Another issue that we're working on with DYS that I'd like to tell you about is a classification study that's currently in progress that will result in better programming and more effective treatment for the 1,700 kids that are currently locked up in Ohio. We also operate a project there to work with sex offenders who have been institutionalized. That serves approximately 100 youth.

I think, most importantly, for the future, we're funding a policy advisory group at the Department of Youth Services that has brought together over 20 people from advocacy groups, juvenile judges, the legal profession, the academic community and citizens groups, and also people from the legislature to help the Department plan for the Nineties.

Senator METZENBAUM. Would you wind up, please, Mr. Schroot? Are you done?

Mr. SCHROOT. Can I have 15 more seconds?

Senator METZENBAUM. Of course.

Mr. SCHROOT. Under both JAA and JJDB, programs are permitted to receive funding for a period of up to 4 years. This gives them time and money to develop local support, to continue operations beyond the grand period. You heard some examples of that earlier today. Without reauthorization, most of the programs that are funded are likely to be discontinued because they have not had time to establish themselves in Ohio communities.

Senator, our experience in Ohio has shown that $70 million nationally for each program would provide adequate funds for Ohio to maintain the efforts that I have talked about and that others will talk about today, and I urge that Congress appropriate these amounts.

Senator METZENBAUM. Thank you very much.

Mr. SCHROOT. Thank you.

Senator METZENBAUM. I appreciate your testimony, Mr. Schroot. Thank you for being with us this morning.

[The following material was subsequently supplied for the record:]

Governor's Council on Juvenile Justice

FIRST ANNUAL REPORT TO THE GOVERNOR

1985-86

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INTRODUCTION

The Governor's Council on Juvenile Justice (Council) was established on June 20, 1984. Executive Order 84-27 mandates the Council provide leadership in improving the quality of the juvenile justice system in Ohio by advising the Governor and the Governor's Office of Criminal Justice Services (GOCJS) on the needs of the juvenile justice system and by maintaining general oversight of the state juvenile justice plan for the Juvenile Justice and Delinquency Prevention Act federal funds.

Activities of the Council have been focused on the development of a mission statement, establishing goals and objectives, and developing guidelines for the distribution of Juvenile Justice and Delinquency Prevention Act federal funds. Committees have been established which address key issues such as the removal of youth from adult jails, national and state juvenile justice legislation, and other emerging issues.

This report provides details of our accomplishments during the past two years and contains recommendations and implementation strategies for future actions.

SYSTEM NEEDS

The juvenile justice system plays a major role in the lives of many troubled youth throughout the State. There is a wide range of services available to youth and their families. Organizationally the juvenile justice system is comprised of many segments in which various youth serving agencies have different goals and responsibilities. This fragmented approach has contributed to the lack of coordinated services which plagues the juvenile justice system.

Based on these concerns it is crucial that a comprehensive youth policy be developed which influences the state and local delivery of services, particularly to high risk youth. This will lead to a better use of financial resources. Improvement in the system can be accomplished through changes in administrative policy. There is also a need to educate youth and their families on receiving the services that they are entitled to. Taking a more wholistic approach in the treatment plan and delivery of services to youth will enable the juvenile justice system to function as it should. Until that occurs, youth will continue to "fall through the cracks". Society demands that youth act in a socially accepted manner. Therefore, the juvenile justice system owes its children the opportunity to meet these demands.

PROGRAMS THAT IMPROVE THE SYSTEM

The Office of Juvenile Justice and Delinquency Prevention has allocated over $5.5 million during the past three years to Ohio for program development in the area of juvenile justice. Contingent upon receiving these funds, the state must effectively move towards the deinstitutionalization of status offenders, the adequate separation of juveniles from adults in jail and the removal of juveniles from adult jails.

To maximize the benifit from these resources the Council decided to develop four program categories which reflect the goals of the Act while at the same time addressing the needs of youth in Ohio. The four areas identified include: Planning and Management, Alternatives to Formal Intervention, Jail Removal, and Alternatives to Institutionalization. All program areas emphasize direct services for juveniles.

Applications are received by the Governor's Office of Criminal Justice Services and are reviewed for content of the program and for compliancy with the Directives. The Governor's Office of Criminal Justice Services next recommends which projects should be approved or rejected to the Juvenile Justice and Delinquency Prevention Committee of the Council. After consideration of the Governor's Office of Criminal Justice Services recommendations, the Committee makes its recommendations to the full Council. The Council then votes its approval or rejection and submits those decisions to the Director of GOCJS. Projects that are rejected may, within 30 days, appeal the decision and have a hearing with the Grievance Committee of the Council.

DESCRIPTION OF FUNDING AREAS

Planning and Management: This category allows for the state to more effectively plan for the expenditure of federal, and local funds and to deal with emerging juvenile justice issues through research and coordinative functions.

Alternatives to Formal Intervention: The Council recognizes that when a youth first comes to the attention of the formal juvenile justice system the juveniles and their families are at a critical point. This category was developed to fund proposals which provide direct services to youth and families that have come to the attention of, but are being treated informally in, the juvenile justice system. It is thought that effective early intervention will prevent future involvement in the system.

There are numerous program activities that are fundable in this category. Projects funded include diversion, family services, coordination and networking of referral services, crisis identification, alternative education programs, youth employment projects, youth mediation, and other activities that address the objectives of early intervention.

Jail Removal: Projects in this category address the removal of juveniles from adult jails. Fundable activities include per diem to detention facilities, shelter care, group homes, in-home detention programs, detention screeners, transportation services and other activities which result in the removal of youth from adult jails.

The results of programs funded in this category have been extremely successful. Refer to the jail removal section of this report for a more detailed discussion of the progress Ohio has made in this area.

Alternatives to Institutionalization: This program category was designed to reduce the number of juvenile offenders held in secure confinement facilities and to increase the number of youth treated in community-based programs. This category addresses the requirement to provide adequate placement and residential settings for juvenile offenders, especially for status offenders, in lieu of institutions.

A variety of services may be encompassed by projects funded under this category including foster care, shelter care, group homes, restitution, structured day programs, family services, and youth mediation. Services for juveniles released from state and local institutions also will be eligible for funding to enhance aftercare services. The objective of this category is to increase the range and effectiveness of community-based programs for adjudicated juvenile felons and increase the likelihood of successful community integration.

For a complete listing of all projects funded during FY1986 refer to Appendix B.

JAIL REMOVAL INITIATIVE

The Council has made significant progress in Ohio in the area of jail removal. The Council is involved in a major statewide effort to remove all juveniles from adult jails. The jail removal initiative began by forming a coalition involving representatives from the Ohio Juvenile Court Judges Association, the Buckeye State Sheriffs Association, the Department of Rehabilitation and Correction, the Department of Youth Services, the Governor's Council on Juvenile Justice, and the Governor's Office of Criminal Justice Services. All jails that were housing juveniles were contacted and invited to attend a workshop on alternatives to the use of jail. A consultant, (Jim Brown Community Research Center, Champaign, Illinois) was brought in on two occasions to discuss and offer options to the use of jail. In addition, these counties were permitted to request funds through this special emphasis project and assistance in completing the applications was offered by members of the Governor's Council on Juvenile Justice, the Juvenile Court Judges Association, as well as the Governor's Office of Criminal Justice Services.

This process resulted in nine counties developing special emphasis projects which removed juveniles from adult jails. Funding ranged from $2,400 to $34,000 per program. The cost was based on the number of juveniles held the previous year and the type of service provided. Programs included home detention, foster care, transportation services, detention screening and funds to pay another juvenile detention center to detain youth. Several of the projects offer a combination of the above programs. In addition, a number of other counties utilized their own resources to remove children from jails.

As a result of the jail removal initiative, Ohio has gone from holding 3,527 juveniles in 33 jails in 1981 to holding 398 juveniles in 7 facilities in 1986. It is expected that this will be reduced further in 1987.

PLANNING AND COORDINATION

The need for improved planning and coordination of youth services is apparent. This is continually echoed at the national, state, and local level. The Council, supporting the goals of the Juvenile Justice and Delinquency Prevention Act also fully endorses the Interdepartmental Cluster on Children which advocates the networking approach for delivery of services to youth. As a result, all programs funded with Juvenile Justice and Delinquency Prevention dollars are expected and encouraged to network in the delivery of services to youth.

The Council has demonstrated that results are favorable when networking is utilized. The success of the jail removal initiative clearly reflects this point. The Council has been instrumental in bringing together various groups which play an active role in the juvenile justice system at the state and local level.

COMMUNITY AWARENESS

The Council provides technical assistance to local service providers and statewide agencies and associations. Based on these interactions, it is becoming increasingly apparent that the public's perception of juvenile crime is somewhat distorted. This misconception is attributed to the public reacting to what the media presents. When a serious crime committed by a juvenile is publicized citizens react as though it is the norm rather than the exception. The results of the Governor's Office of Criminal

Justice Services Citizen Attitude Survey conducted over the last seven years indicates that Ohio's citizens are more upset over a group of juveniles gathered on a street corner than if their neighbor was burglarized. This concept is further supported by the restrictive legislation pertaining to juveniles that has been proposed in the last year.

To correct this the public must be aware of the facts. A statewide public information campaign is needed to educate youth and adults, service providers and state legislators about the complex issues that effect the juvenile justice system. The Council provided training in the area of jail removal which communities reacted to positively. A statewide clearinghouse is being developed to centralize juvenile justice resouces for practitioners. The development of a law related education program is also being examined.

LEGISLATION

The Governor's Council on Juvenile Justice established a Legislation Committee to address concerns and take appropriate action on issues developing on both a state and national level. Within the last year the Council has taken an active role on national issues through their participation with the National Coalition of State Advisory Groups. The Council's involvement included:

- Providing supporting documentation to the federal Judiciary Committee regarding the use of Juvenile Justice and Delinquency Prevention funds in Ohio which supported the reauthorization movement of the Office of Juvenile Justice and Delinquency Prevention.

- Supporting the position of the National Juvenile Court Judges Association which opposes the Juvenile Justice National Model Code because of the long range negative effects it would have on Ohio's juvenile justice system.

- Preparation of a paper on the status of jail removal in the states under the Juvenile Justice and Delinquency Prevention Act in conjunction with the Midwest Coalition.

The Council has also been active in statewide issues regarding the juvenile justice system. In the past year, activities of the Legislative Committee have included:

- Opposing H.B. 719 because of the long range negative impact on the juvenile justice system.

- Issuing a budget resolution statement to state legislators which support funding in the area of human services. (refer to Appendix D)

- Opposing legislation which is too restrictive in the treatment of juvenile offenders.

The Council proposes to work with the General Assembly in the future regarding juvenile justice system issues. In the future, the Council would like to coordinated with the General Assembly and provide information sessions to legislators on pending and proposed juvenile justice issues.

DUE PROCESS

To ensure that the due process rights of youth in the juvenile justice system are protected, the Council will be conducting a survey of the use of detention in Ohio during 1987. The Council has provided funds to provide alternatives to detention however, there are still many youth being detained. In fact, results of the 1986 Monitoring Report indicates that a substantial number of juveniles are detained in violation of the federal deinstitutionalization of status offenders guidelines as well as the Ohio Revised Code five-day rule on the use of detention. In 1987, the Council will target the counties that are in violation of state law and offer technical assistance and limited funding to these areas similar to what occurred with the jail removal initiative.

The results of the detention center study will be presented to the Ohio Department of Youth Services and the Juvenile Court Judges Association. By examining statewide guidelines regarding the use of detention and developing criteria which results in a greater use of least restrictive alternatives that they will be encouraged to develop a coordinated approach to establish practices which will ensure that youth receive fair and equitable dispositions and due process protection.

POLICY DEVELOPMENT

The Council has become a viable resource to be used in decisions that affect the juvenile justice system. Through strategic use of the Juvenile Justice and Delinquency Prevention funds, the Council has improved the quality of justice for youth in Ohio.

The issue of detaining youth in adult jails has gained much national and statewide attention in the past two years. Many states have looked to Ohio for direction in achieving jail removal. The Council's Jail Removal Initiative has made substantial progress in Ohio toward the removal of juveniles from adult jails. Fewer juveniles are subjected to the abusive conditions that exist in adult jails. However, barriers do exist which preclude 100% removal of juveniles from adult jails in Ohio.

This suggests that a jail removal policy, which would remove all children from adult jails, should be legislatively mandated. Furthermore, recognition to juvenile court judges and sheriffs that have achieved removal is warranted. Press releases and letters of achievement have been issued to these judges from the Council.

Three new initiatives are being developed in 1987: a sexual offender and/or violent offender program; a program to reduce violations of the Ohio Revised Code five-day rule and of the federal 24 hour mandate regarding the use of detention; and community-based projects to reduce commitments to the Ohio Department of Youth Services. It is anticipated that effective policy development will result in substantial improvements in the juvenile justice system.

Appendix A

STATE OF OHIO
Executive Department
OFFICE OF THE GOVERNOR

Columbus

EXECUTIVE ORDER 84-27

CREATING THE GOVERNOR'S COUNCIL ON JUVENILE JUSTICE

WHEREAS, juvenile delinquency constitutes a growing threat to the State and national welfare requiring immediate and comprehensive action to reduce and prevent it; and

WHEREAS, the Governor's Office of Criminal Justice Services has the responsibility for assisting communities and coordinating the activities of State agencies that have an impact on public safety; and

WHEREAS, the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415), as amended, requires the appointment of an advisory group to advise the Governor's Office of Criminal, Justice Services which was created pursuant to the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351), as amended, and Ohio Revised Code Section 122.21 to 122.27;

NOW, THEREFORE, I, Richard F. Celeste, Governor of the State of Ohio, by virtue of the authority vested in me by the Constitution and by the statutes of this State, do hereby order and direct that:

1. There is hereby created a Governor's Council on Juvenile Justice. The members of the Council, as well as the Chairperson, shall be appointed by the Governor and serve at his pleasure. The Council shall consist of an indeterminate number of members chosen as follows.
    a. Representatives of locally-elected officials, units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation departments;
    b. Representatives of juvenile or family court judges;

c. Representatives of public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education, or youth services departments;

d. Representatives of private organizations concerned with delinquency prevention or treatment, neglected or dependent children, and the quality of juvenile justice, education, or social services for children. These organizations are among those which utilize volunteers to work with delinquents or potential delinquents, and community-based delinquency prevention or treatment programs;; and

e. Representatives of business groups and businesses employing youth; youth workers involved with alternative youth programs; persons with special experience and competence in addressing the problems of school violence and vandalism and the problem of learning disabilities; and organizations which represent employees affected by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

A majority of members (including the Chairperson) shall not be full-time employees of the federal, State, or local government.

At least one-fifth of the members shall be under the age of 24 at the time of appointment.

At least three members shall have been or shall currently be under the jurisdiction of the juvenile justice system.

Governor's Council on Juvenile Justice members shall, unless otherwise compensated by their employer for service on the committee, be entitled to reasonable and necessary expenses incurred in travel status under the same standards applied to State employees.

2. The Governor's Council on Juvenile Justice shall have the following powers and duties.
   a. Exercise leaderhip in improving the quality of the juvenile justice system in the State.
   b. Advise the Governor's Office of Criminal Justice Services on the overall needs and accomplishments of the juvenile justice system in the State.
   c. Advise the Governor's Office of Criminal Justice Services on the general program priorities for all funds made available to Ohio through the federal Juvenile Justice and Delinquency Prevention Act, as amended.
   d. Review, approve, and maintain general oversight of the State juvenile justice plan for the Juvenile Justice and Delinquency Prevention Act.
   e. Establish, as required, various committees, the members of which shall be appointed by the Council.
   f. Establish rules that the Council considers necessary and that are consistent with the federal Juvenile Justice and Delinquency Prevention Act, as amended, and Section 122.22 of the Ohio Revised Code.
   g. Hold at least four regular Council meetings annually, to be scheduled at the call of the Chairperson, and any additional special meetings that are necessary, to be called by the Chairperson on his or her own initiative or upon a written request that is signed by a majority of Council members and directed to the Chairperson.
3. The Governor's Office of Criminal Justice Services is hereby designated to prepare criminal and juvenile justice plans; to award and administer grants to projects implementing the plans as required under federal or State programs requiring such responses by

the State of Ohio; to cooperate with and to coordinate activities of other criminal and juvenile justice agencies within the State of Ohio; and to provide financial and staff support to the Governor's Council on Juvenile Justice.

This Executive Order supersedes any prior Executive Order inconsistent herewith.

IN WITNESS WHEREOF, I have
hereunto subscribed my name and
caused the Great Seal of the
State of Ohio to be affixed at
Columbus, this 20th day of
June, in the year of our Lord,
one thousand, nine hundred
eighty-four.

Richard F. Celeste
Governor

ATTEST:

Secretary of State

Appendix B

1986 Funded Projects

Category C01: Planning and Managment

Project Name	Amount Funded	County
Coordinated Youth Services System	$ 4,933	Jefferson
Determning Incidence of DYS Youth with Mental Problems	17,766	Statewide
Youth Guidance Program	29,190	Montgomery
Outreach Diversion	19,304	Cuyahoga
Tremont Parent Youth Plan	26,000	Cuyahoga
Prepare, Attend, Mediate	7,184	Cuyahoga
Upward Bound Tutoring	21,895	Cuyahoga
Central Mediation	18,754	Cuyahoga
Youth Guidance Neighbor. Direct	16,200	Cuyahoga
Substance Abuse Aftercare	4,941	Statewide

Category C02: Alternatives to Formal Intervention

Project Name	Amount Funded	County
Big Brothers/Big Sisters	$ 19,892	Allen
Childrens Assessment Team	19,892	Huron
Early Intervention	5,730	Richland
Informal Intervention	5,941	Lake
Family Services Advocate	24,255	Holmes/Wayne
Intervention Outreach	9,450	Butler
Community Update & Planning	4,770	Clermont
Youth Residential Services	29,400	Columbiana
The Shelby Alternative	31,000	Shelby
Alternatives for Youth	33,755	Logan/Champaign
Community Diversion Project	24,345	Tri-County
Student Services	7,950	Belmont
Vinton Juvenile Bureau	5,260	Vinton
Parent Education Program	8,166	Guernsey
Shelter Care	16,885	Montgomery
Diversion Group Therapy	15,402	Montgomery
Building Linkages - Youth	30,000	Montgomery
Project Advance	15,817	Summit
Juvenile Offender Network	19,828	Cuyahoga
Youth to Youth Leadership	10,670	Cuyahoga
Youth Outreach Project	12,211	Cuyahoga
Youth Resource Centers	26,000	Cuyahoga
Substance Abuse Program	12,817	Cuyahoga
Comprehensive Youth & Family Program	25,188	Cuyahoga
Crisis Intevention	31,361	Lucas
Cumming-Zucker Center	18,000	Lucas

Project Name	Amount Funded	County
Children of Alcoholics	15,000	Lucas
Multi Problem Family Training	15,000	Lucas
Community Intervention	10,000	Lucas
Peer Support Project	10,435	Franklin
Youth Employment Assistance	7,634	Franklin
Petit Theft Diversion	6,550	Franklin
Options for Youth	6,003	Franklin
Project Passage	30,000	Franklin
Unruly Diversion	14,095	Franklin
Youth Diversion	26,946	Franklin
Industrial Arts	22,500	Franklin

Category C03: Jail Removal

Project Name	Amount Funded	County
Home Detention Program	$ 12,000	Fulton
Child Retention Unit	20,500	Defiance/ Paulding
Detention Services	21,000	Ottawa
Detention Screening	23,650	Medina
Jail Removal Project	18,000	Miami
Intervention Analyst	7,650	Jefferson
Jail Removal	2,400	Madison

Category C04: Alternatives to Institutionalization:

Project Name	Amount Funded	County
Portage County Group Home II	61,402	Portage
Alternatives to Detention	30,700	Stark
Reintegration Program	17,345	Belmont
Sheltercare Project	37,860	Clermont
Differential Programming	8,250	Delaware
Lawrence County Farm	36,809	Lawrence
Dispositional Alternatives	34,265	Hamilton
Independent Living	45,390	Hamilton
Probation Tracking System	26,611	Hamilton
Adolescents Learning Parents Helping Adolescents	51,585	Perry
Transition	19,207	Hamilton
Project 440	39,000	Statewide
Akron YMCA Phoenix Program	9,195	Summit
Shelter Care	38,882	Summit

Appendix C

THE GOVERNOR'S COUNCIL ON JUVENILE JUSTICE

Chair: Kathryn Vine, Director
West Side Adolescent Services Network, Cleveland

Elizabeth Benefield, Project Director
Directions for Youth, Columbus

Lawrence Carlier, Judge
Clermont County Juvenile Court, Batavia

Gretchen Denton, Past President
League of Women Voters, Ohio, Newark

Joyce Childers
Friendship

Andy Devine, Judge
Lucas County Domestic Relations, Toledo

David Freel, Chief Council
Ohio Ethics Commission, Columbus

Andy Hamburger, Police Department
Canal Winchester

Donna Hamparian
Federation for Community Planning, Columbus,

Edward Hughes, Executive Secretary
Scioto County Childrens Services Board, Portsmouth

Michele Leavitt, Youth Representative
Gahanna

Tom Marsh, Youth Representative
Portsmouth

Sally Maxton, Director
Ohio Youth Services Network, Columbus

Douglas McCoard, Executive Director
Huckleberry House, Columbus

Geno Natalucci-Persichetti, Director
Department of Youth Services, Columbus

Arturo Quintero, Attorney
Toledo

David Schroot, Court Director
  Clark County Juvenile Court, Springfield

Richard Szczygielski
  National Exchange Club, Toledo

Clifford Tyree, Retired
  Columbus Youth Services Director, Columbus

Christine Wolf, Consultant
  Juvenile Justice Issues, Shaker Heights

Committees:

- Education
- Executive
- Grievance
- Juvenile Justice and Delinquency Prevention
- Legislation
- National Issues
- Special Emphasis Committee
- Youth Policy

Governor's Office of Criminal Justice Services

Personnel who staff the Governor's Council on Juvenile Justice:

Candace Peters, Chief Corrections Bureau
Brian Simms, Social Program Developer
Linda Modry, Researcher III
Patricia Workman, Secretary

Appendix D

RESOLUTION

The Governor's Council on Juvenile Justice was established by Executive Order on June 20, 1984, to advise the Governor, The Governor's Office of Criminal Justice Services, and other state and community bodies on how to more effectively address the diverse and complicated issues related to juvenile justice and youth services.

During its meeting of June 14, 1985 the Governor's Council on Juvenile Justice was apprised of the status of the proposed State Budgets. We are profoundly concerned about the direction of the State Budget and the dire consequences that will result if proposed cuts are implemented. Current Budget proposals threaten the health, safety, and welfare of children and communities in Ohio.

The members present unanimously voted that it be resolved to support restoration of funding in the Ohio Department of Youth Services Budget:

- Personal Services (including Recovery Services)
- 510 Youth Services Grant
- Community Residential and Community Non-Residential Services (including foster care, mental health services, and cluster funds)
- Serious Offender Initiative
- Special County Projects (i.e. Prevention)

The needs of children coming before the juvenile justice system are greater than ever before, the proposed budgets -- if passed -- will result in greater expenditures of funds for adult services, increase victimization of citizens, and obstruct positive interventions with and effective treatment of youth.

SIGNED: Kathryn M. Vine

Kathryn M. Vine, Chair, Lakewood

Elizabeth Benefield, Columbus
The Honorable Lawrence Carlier, Batavia
Joyce Childers, Friendship
Gretchen C. Denton, Newark
The Honorable Andy Devine, Toledo
Beverly Eichenauer, Celina
David E. Freel, Columbus
Cheryl D. Grant, Cincinnati
Fran E. Grum, Willowby
Andy Hamburger, Canal Winchester
Donna Hamparian, Columbus
Edward Hughes, Portsmouth
John Mattingly, Cleveland
Sally Maxton, Columbus
W. Douglas McCoard, Columbus
Aruro Mirelez Quintero, Toledo
Mark Reiber, Columbus
Sue Rench, Hamilton
David G. Schroot, Springfield
Scott Stargel, Dayton
Richard Szczygielski, Toledo
Patricia Thompson, Columbus
Clifford Tyree, Columbus
Christine E. Wolf, Cleveland

Membership includes representatives of public and private youth serving organizations, including those with a special focus on maintaining and strengthening the family unit, those representing parents or parent groups, those concerned with delinquency prevention and treatment and with neglected or dependent children, and those concerned with the quality of juvenile justice.

APPENDIX E

MISSION STATEMENT, GOALS AND OBJECTIVES

The development of the Governor's Council on Juvenile Justice mission statement, goals and objectives is a result of the Council's mandate contained in the Executive Order as well as the expertise and commitment towards improving the quality of youth services in Ohio the Council's membership brings with it.

Mission Statement

The Governor's Council on Juvenile Justice (the Council) was established by Executive Order on June 20, 1984, to advise the Governor, the Governor's Office of Criminal Justice Services, and other state and community bodies on how to more effectively address the diverse and complicated issues related to juvenile justice and youth services.

The Council is committed to promoting the positive growth and development of Ohio youth by improving the quality of juvenile justice and youth services in Ohio.

The Council will work to enhance the quality and range of youth programs; improve coordination and planning of services for youth, families and their other support systems; to provide and promote public education on juvenile justice and youth service issues; address legislative issues; support the rights of youth to due process and effective treatment; and to actively participate at the state and national level on behalf of youth.
(Adopted 3/85)

Goals

Goal I:

Advise the Governor and the Governor's Office of Criminal Justice Services on the needs and accomplishments of the juvenile justice system in Ohio and nationally.

Goal II:

To encourage the development and enhancement of programs in and alternatives to the juvenile justice system and to the institutionalization of dependent, neglected, abused, unruly, delinquent and other at-risk youth.

Goal III:

To improve planning, coordination and networking of services to youth in Ohio and to support policies and practices which promote continuity of care across systems and effective aftercare services.

Goal IV:

To increase community awareness of the juvenile justice system and services to youth and to educate the community and juvenile justice professionals about current youth service issues, policies, and programs, as well as innovative concepts and exemplary projects.

Goal V:

To impact state and national legislation related to juvenile justice policies and youth issues.

Goal VI:

To support policies and procedures that protect the due process rights of all youth in contact with the juvenile justice system and ensure that they receive fair and equitable dispositions which utilize the least restrictive alternative.

Goal VII:

To establish visibility and credibility as an advisory body at the state and national level.

Objectives

Objectives for Goal I:

A. To advise the Governor's Office of Criminal Justice Services on general program priorities for funds annually available to Ohio from the Office of Juvenile Justice and Delinquency Prevention.

B. To maintain general oversight regarding the Comprehensive Plan and other issues consistent with the Juvenile Justice and Delinquency Prevention Act through (1) an annual needs assessment (2) annual review of the Comprehensive Plan (3) approval of specific proposals and projects and (4) to accept and act on appeals as presented.

C. To review and comment on the official status and activities of the juvenile justice system.

Objectives for Goal II:

A. To support community-based programs or services which advocate utilization of the home and family in the treatment of delinquent, unruly and other at risk youth.* (Revised 3/15/85 Education Work Group)

B. To encourage further development of programs for alternative education, youth employment, chemically dependent families, and other services for intervention and prevention*. (Revised 3/15/83 Education Work Group)

C. To encourage futher development of family crisis centers and of home-based family services*.

D. To encourage further development of programs targetted to minority youth and families*.

* These objectives will be met through allocation of funding, community education and positions taken on policy issues and pending or recommended legislation.

E. To achieve 100% compliancy with Juvenile Justice and Delinquency Prevention Act mandates on removal of juveniles from adult jails and lock-ups by 1987. (Juvenile Justice and Delinquency Prevention Work Group 4/85)

F. To inform the community and the juvenile justice system about the Comprehensive Plan, including projects funded through the Juvenile Justice and Delinquency Prevention block grant and the results of the needs assessment. (Juvenile Justice and Delinquency Prevention Work Group 4/85)

G. To provide technical assistance to communities based on knowledge about existing programs, both those funded with Juvenile Justice and Delinquency Prevention money and exemplary projects from around the country. (Juvenile Justice and Delinquency Prevention Work Group 4/85)

Objectives for Goal III:

A. To require evidence of coordination between state and local programs through Juvenile Justice and Delinquency Prevention project requirements and support more effective coordination between state and local programs through regional hearings and eduction efforts by the Council.

B. To identify and promote working models of local networking.

C. To advocate for adequate funding of identified service needs for youth and families through legislation and other funding resources through regional hearing etc. (Revised 3/15/85 Education Work Group)

D. To advocate for a strategic statewide juvenile justice plan through regional meetings and other organizational efforts.

Objectives for Goal IV:

A. To conduct regional hearings on juvenile justice and other youth and family service issues.

B. To promote the establishment of a more comprehensive information and data base regarding the current status of the juvenile justice system and facilitate dissemination of the information and act as a clearinghouse for the provision of training and technical assistance to service providers and interested community groups.

C. To educate youth and adults about the juvenile justice system through community education, outreach efforts, the development of law-related education programs through the use of appropriate materials and media resources.

D. Identify exemplary programs in Ohio, based on established criteria and give a certificate of merit to those projects for outstanding accomplishment.

E. To educate the Council regarding the juvenile justice system in Ohio and suggest needed improvements in juvenile justice policies and programs through materials, public hearings.

F. To maintain full compliance, with de minimis exceptions, with the deinstitutionalization of status offenders. (Juvenile Justice and Delinquency Prevention Work Group 4/85)

G. To encourage the least restrictive detention alternative appropriate to the needs of the child and protection of society. (Juvenile Justice and Delinquency Prevention Work Group 4/85)

Objectives for Goal V:

A. To review, comment and develop policy statements on proposed state and federal juvenile justice legislation.

B. To recommend needed state legislation.

C. To provide testimony or information to the legislature on juvenile justice and youth issues and needs.

D. To provide at least two or three information sessions to legislators on juvenile justice and youth issues and needs during the 116th General Assembly.

E. Review pending legislation and advise the Governor's Office through statements of Council position.

Objectives for Goal VI:

A. To examine statewide guidelines concerning the use of detention and make recommendations that would result in increased use of least restrictive alternatives.

B. To support development of policy guidelines that will ensure confidentiality of juvenile records while ensuring fiscal accountability and permitting the sharing of information essential for a more effective juvenile justice system. These guidelines will address confidentiality of juvenile records for treatment, program development, monitoring, assesment, and research.

C. To review, comment and support the development of policy guidelines and practices that ensure youth receive fair and equitable dispositions and due process protection.

Objectives for Goal VII:

A. To participate through attendance and other activities in the National Steering Committee on national juvenile justice issues through 1986.

B. To participate through attendance and other activities with the Midwest Coalition activities through 1986.

C. To establish and maintain ongoing relationships with major statewide juvenile justice organizations.

GOVERNOR'S OFFICE OF CRIMINAL JUSTICE SERVICES
CAPITOL SQUARE, 65 EAST STATE STREET, SUITE 312, COLUMBUS, OHIO 43215

April 15, 1988

The Honorable Howard Metzenbaum
Senator
United States Senate
Clerk of Senate, Senate Office Bld.
Washington, D.C. 20510

Dear Senator Metzenbaum:

Thank you again for the opportunity to testify before your subcommittee in Cleveland last month. We appreciated the chance to discuss the importance of the Justice Assistance Act and the Juvenile Justice and Delinquency Prevention Act to the people of Ohio.

During testimony, I promised to provide information on the rehabilitative programs for inmates operated by the Ohio Department of Rehabilitation and Correction. This letter attempts to fulfill that promise.

According to the Department, about 3,000 inmates currently work for Ohio Penal Industries (OPI). The Department's goal is to employ 20% of the able inmates by 1991. Thus, the Department anticipates having about 5,000 inmates at work for OPI in three years. In addition to the stereotypical license plates and flags, OPI inmates manufacture office furniture and print forms for State agencies. OPI soon will open a data processing shop designed to compete with the cheap labor offered by Korea and other countries. Also, hundreds of inmates work on prison farms producing food for fellow prisoners and livestock for sale.

Department records show that 5,223 inmates presently participate in alcohol abuse programs and 4,698 are involved in drug abuse programs. Many inmates are in both. The programs run the gamut from support groups such as Alcoholics Anonymous and Narcotics Anonymous to psychotherapy and advance treatments.

Moreover, about 12,500 prisoners participate in education programs. Of these, 5,500 are in adult basic education, 430 in high school, 1,500 in vocational school, 4,500 in college programs offered in the prisons, and 700 in college correspondence courses.

In my testimony, I mentioned the work of the Governor's Committee on Prison Crowding, funded by the Justice Assistance Act and administered by my office. One of the Committee's recommendations, subsequently enacted by the General Assembly, was to encourage inmates to enter rehabilitative programs by granting small sentence reductions (two days per month, but cumulatively not more than 3.3% of the minimum sentence imposed by the court) to inmates who "productively" participate. The bill has had an impact. For instance, the Department estimates that 30% more inmates now participate in substance abuse programs than did before the enactment of the bill.

Before concluding, I would like to shift gears for a moment. I testified on the value of JAA and JJDP funding. I would like to add that the programs funded under the Anti-Drug Abuse Act of 1986 also are important.

After only one year of funding, the Administration recommended discontinuing the Anti-Drug funds. This means that programs started with these monies will be denied subsidies after one year. Typically, it takes a project three or four years to become established in, and paid for by, communities served. Affected programs include multijurisdictional drug task forces to enhance enforcement and programs for the treatment of inmates similar to those mentioned above. My office has discussed this with your Cleveland staff. If further information is needed, feel free to call us at (614) 466-7782.

Sincerely,

David G. Schroot

David G. Schroot
Director

DGS/DD:bp

Senator METZENBAUM. It is my understanding that Mr. Joseph D. Whitley, Deputy Assistant Attorney General of the Criminal Division of the U.S. Department of Justice has arrived.

Happy to have you with us, sir.

Mr. Whitley, we have a 5-minute rule for witnesses, but we will not hold you to that time limit. On the other hand, we would ask you to be reasonably brief so we might have some exchange and questions, but we won't hold you to the 5-minute rule.

STATEMENT OF JOSEPH D. WHITLEY, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC, ACCOMPANIED BY KEN McHARGH, OFFICE OF THE U.S. ATTORNEY, NORTHERN DISTRICT OF OHIO

Mr. WHITLEY. Thank you, Senator. It's a pleasure to be here in Cleveland today for testimony that you have asked us to provide you.

I would like to introduce with me at the table, Mr. Ken McHargh, who is the lead Task Force attorney in the Office of the U.S. Attorney, Pat McLaughlin, here in the Northern District of Ohio. Mr. McHargh coordinates the prosecution of the major drug cases here in the Northern District of Ohio. He is a native of Akron, OH, and he has been with the U.S. Attorney's Office here since 1979. He has been in his current position as an Organized Crime Drug Enforcement Task Force prosecutor since 1983.

I will not read my testimony to the Chairman. What I would like to do, though, is to give you an overview of what the testimony sets out.

Senator METZENBAUM. Your entire statement will be included in the record.

Mr. WHITLEY. Thank you.

We would submit initially that the formal hearing request that we received pointed out that we should provide you testimony on Federal asssistance to State and local law enforcement here in Ohio.

Additionally, Mr. McLaughlin, who is the U.S. Attorney here, would have been here but for an obligation, a military commitment that he had in the reserves. So I was asked to come and testify on efforts here in the Northern District of Ohio. So much of my testimony is geared towards what has been going on here by way of operations out of his office. But I also understand, from communications from committee staff, that the committee would like our views also on S. 1250, which is Senator Biden's bill which I believe you mentioned a while ago.

Senator METZENBAUM. You are from Washington; is that right?

Mr. WHITLEY. Yes, sir. I am from Washington, DC, I am a Deputy Assistant Attorney General in the Criminal Division. I was formerly a U.S. Attorney in the Middle District of Georgia. Before that, I was a State prosecutor in Columbus, Georgia, for a short period of time.

At the outset, I would like to note that Federal assistance to the Northern District—or to Ohio, rather, during Fiscal Year 1987 was almost $13 million through grant and aid programs. At the back of my formal testimony, there is a listing and a breakdown of where that money went to the various programs in the State.

I believe it's important for the committee to also note what's been going on here in the Northern District of Ohio, principally beyond State and local law enforcement grants.

There have been two approaches to the drug problem in this country, and Mr. McLaughlin, in the Northern District, has proceeded in dealing with both the demand side and the supply side of the issue.

He has formed, in the Northern District of Ohio, the Northern Ohio Drug Abuse Awareness Prevention Task Force. This task force is the catalyst in northern Ohio for the development of an entire community-based attack on drugs and alcohol through education and prevention programs, activities and initiatives.

The Task Force was formed at a conference in September of 1986 which was attended by more than 750 people, representing all segments of the community in northern Ohio. The conference attendees thereafter subdivided Ohio's northern-most 40 counties into six area groups. A chair person and co-chair person were designated for each area task force. These persons, in addition to representatives from the State government and health professions, are members of a central committee, chaired by the U. S. Attorney. Each area task force is supported by an Executive Committee, including country groups and local organizations.

On the supply side, the U. S. Attorney's determination that the war against drugs would be a major prosecution priority has caused him to make an unprecedented attempt to develop cooperative efforts to investigate and prosecute drug violators—drug law violators. Spearheaded by the U. S. Attorney's Organized Crime Drug Enforcement Task Force, Federal and local cases have been skillfully investigated and prosecuted throughout northern Ohio, as you are, I'm certain, well aware.

Equitable sharing requests from local involved law enforcement agencies are being processed and addressed in Washington. In addition, presently pending are forfeitures that will result in over $100,000 being returned to local law enforcement officials through the Equitable Sharing Program for their use in their efforts to combat crime.

Some other examples of the use of Federal Forfeiture Statutes to enable the return of money, vehicles and other property to local law enforcement should be noted. The Stark County Metro Narcotics Unit has received approximately $22,000, and another request is pending for $3,000. The Bedford Heights Police Department has received approximately $11,000—and I hope I pronounce this right—the Cuyahoga County Sheriff's Office received approximately $36,000.

Senator METZENBAUM. I don't want to interrupt you, but I want you to know that we all think that what has transpired and is transpiring at the moment is all to the good. Frankly, what concerns us is the administration's program to totally terminate these funds.

I think one of the main causes for this hearing being held is that there is a sense of alarm as to—you pointed out very eloquently, and I'm sure there are more specifics that you have—as to what has been done effectively to date. But with the administration's proposal to totally eliminate any funding for these programs in the future, that's the source of our concern.

I do hope that you will address yourself to that, because we don't understand it.

Mr. **Whitley**. I can appreciate the question, Mr. Chairman. What I would like to do is address what we have been doing here in a historical fashion and then, hopefully, respond to any questions the Chairman might have on specific programs, the cutbacks. How those may impact on northern Ohio, I'm not certain. You have already heard testimony from other witnesses that have described what they perceive to be the impact.

Let me quickly run through this and then, if it is agreeable, I'll attempt to respond to questions that the Chairman may have.

Senator **Metzenbaum**. Of course.

Mr. **Whitley**. Then, in the event that I'm not in a position to respond, we would like to have an opportunity to respond later to those questions.

Quite honestly, we were not aware—at least I was not aware until yesterday that the questioning that you would have for us would go into such detail into S. 1250 and other programs associated with it.

Senator **Metzenbaum**. We are less concerned, frankly, with the detail of S. 1250 than we are in the thrust of 1250 vis-a-vis the administration's position, which is no funding.

There are witnesses here today from all sectors of the community, whether it's the judicial, or whether it's the law enforcement, or whether it's the neighborhood groups, all of whom are here to indicate their support.

We know that the Attorney General publicly, in an article, talked about this program and said, quote, "Impressive results can be achieved by tapping this hitherto under-utilized resource. A prime example of this is the growth of Neighborhood Watch programs across the country."

He went on to talk about Fairfax County and that these watch groups have been greatly responsible for the 23 percent reduction in serious crime, and the amazing 50 percent drop in burglaries experienced by the county over the first half of this decade; then went on to say, "While Neighborhood Watch is primarily a local program, the Justice Department has been doing a number of things to encourage its growth. Our Bureau of Justice Assistance has made available $8 million in block grants for community crime prevention programs like Neighborhood Watch."

That's all very supportive, and we don't take issue with that. Our concern is, in view of the fact that the Attorney General speaks so well of the program and the fact that your testimony supports the program, or indicates the success that's been had with the program, and these other groups are here today testifying as to the support of the program, and the extremely modest number of dollars that are totally involved with the program.

We're talking about $8 million, total justice, $8 million, total justice assistance in the country. I need not tell you that in the Washington arena $8 million should be a lot of money, but it is not a lot of money when you're talking about trillion dollar budgets. So we have difficulty in understanding why the Justice Department has lauded the program and then withdrawn its support for it.

Mr. WHITLEY. This is the Justice Assistance Act, $8 million for programs in local communities. Is this what you are referring to?

Senator METZENBAUM. Yes. In particular, State and local assistant grants could decline by $8 million. Grants for regional information sharing systems would be cut by $12 million. It's from the Department of Justice Budget Proposal.

Mr. WHITLEY. I see. So there would be a cut of $8 million in the Justice Assistance Act program. Is that what you are suggesting?

Senator METZENBAUM. Yes. Across the country. That is the total; there's only $8 million in it.

Mr. WHITLEY. If I could, I will respond in a general fashion and, hopefully, I can respond to some of the particulars that the Senator has for us.

Mr. McHargh is here; let me say one last word about his involvement. He has been involved here in this community in the coordination of the Caribbean Task Force Program which has been quite useful in the Northern District of Ohio in ferreting out those people that are involved in the trafficking of cocaine in the Northern District.

I won't go into any more of my testimony, except to say that there are lots of good things going on here that don't cost anything in the sense of actually appropriating funds from Washington, D.C.

One of the things that I have observed personally, and this is my own personal comment. In years past, we had something called LEAA, and we had other programs, where we funneled monies into communities. They were not necessarily monitored as well as we should have monitored those programs. Currently, I think we do a relatively good job of monitoring how those funds are expended.

The Office of Justice Programs was set up to assist in that process; in particular, the Bureau of Justice Assistance, I believe, which manages the funds which you allude to, which are provided for in the Justice Assistance Act, so I think we do a better job of monitoring.

The fundamental precept, though, has been lately in Washington that we're dealing with a budget crisis of proportions, the likes of which I'm sure you have never seen in your lifetime, in your career as a Senator. We're seeking to deal with it. We're looking at what programs—even though these programs, admittedly, are good programs. They are programs that have done lots of good for many communities.

We're looking at the primary mission of the Department of Justice in the funds that we do receive for providing our domestic defense federally. We only get so much of the budget in the Department of Justice. Therefore, much of our funding proposals, have been to phase back certain programs and reduce altogether certain other programs that, admittedly, have had a good impact; but in the opinion of those in the administration, they would be of limited duration. They would sort of set the stage as seed money for programs that would serve as a catalyst to local communities, for programs such as Neighborhood Watch, as you indicated.

Certainly, we all agree that the objectives of many of the programs that you will hear testimony about are very laudable. I personally think that they are all very useful programs. Nonetheless, we are in a situation in Washington where we have limited funds.

Currently, our prisons, our Federal prisons are at 50 percent overcapacity, even more than here in Ohio, as you heard from the gentleman earlier. We are in a crisis situation at the Federal level, dealing with drugs at our borders, drugs all across the United States.

So what we have sought to do is balance out our priorities at the Federal level. We are asking the States, where they can, to assist us and pick up part of the burden and help us with the process of moving ahead together. We see it truly as a partnership.

None of us, Senator, would wish to do—or seek the cuts that are going to be sought for these programs. Nonetheless, we are in a situation that is beyond any situation we have ever seen in Washington in terms of the deficit, and we are seeking to comply with the Balanced Budget Act of 1986 in submitting our budgets.

Senator **Metzenbaum**. Mr. Whitley, you say that we all understand the problem of trying to balance the budget. But we also understand that the President can enthusiastically talk about sending $200 million down to the Contras in Nicaragua; the President can talk about new, exotic space programs and military programs, SDI, which are way up in the billions.

We just saw today, in today's *Plain Dealer*—I picked it up and I saw where Bell Helicopter is going to give back $90 million in overpayments in military contracts. You can hardly pick up a paper on any day where you don't find that some defense contractor is either being charged with, or agreeing to the fact that they have padded the bills or the Government has been overcharged big amounts of dollars.

Now, in this instance, your statement says, "As you are all aware, the Department of Justice's number one priority is the drug problem." Number one priority. Then you go to the budget statement and you see where the budget recommendation of the Department, that anti-drug abuse grants would be cut by $69.5 million a year, and the State and local assistance grants would decline by $8 million, which is 100 percent of the entire amount.

Now, earlier—and I'm not sure you were here, but Judge Griffin, who is the Chairman of the Task Force on Violent Crime in the Community, spoke about the dollars that come from the Federal Government being leveraged in order to make it possible to get money from the State and from the local governments, and from private sources and from community agencies.

My concern is, you say this is a partnership. But I say that that's like the old story about—I remember something about I want you to come over for a duck dinner, but you bring the duck. You are saying you want a partnership but you don't want to put anything in.

We understand, and I certainly understand, having been on the Budget Committee for so many years, the need to look towards what our priorities and needs are. But the fact is when you cut back $69 million on the drug program, and you eliminate entirely the local assistance program, which is a pittance, $8 million, and the Attorney General of the United States writes, in the Police

Chief Magazine of February 1988, what a great program this is; there is an inconsistency which we can't understand.

I must be very candid with you, Mr. Whitley. I recognize, you don't make the policy; you are here as a spokesperson. But I think the only way we can send our message to the Justice Department is by letting you know the views that I have. I might say further to you that I think that what I am saying pretty much reflects an overwhelming majority of members of the Judiciary Committee of the U. S. Senate, and my guess is of the Senate, as well.

I feel optimistic that in spite of the failure of the Justice Department to support these programs, I think that the Congress will act. But we would much prefer to take these steps in cooperation with the Justice Department rather than in spite of the Justice Department.

[The prepared statement of Mr. Joseph D. Whitley follows:]

Department of Justice

STATEMENT

OF

JOE D. WHITLEY
DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

BEFORE

THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING

FEDERAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT

ON

MARCH 10, 1988

Mr. Chairman and Members of the Committee, I appreciate this opportunity to address the Committee on behalf of the Attorney General and the United States Attorney for the Northern District of Ohio.

Your formal hearing request sought information on federal assistance to state and local law enforcement. More recently, we have been advised informally by Subcommittee Staff that the Committee seeks our views on S. 1250.

At the outset, I should note that total federal assistance to law enforcement in Ohio during Fiscal Year 1987 was $12,968,976. Attached to my statement is a breakdown of the grants which were processed by the Department of Justice. I believe, however, that it is important to make the Committee and the community aware of the numerous ways in which we seek to assist state and local law enforcement beyond grants. Several major accomplishments of the Department of Justice, through the United States Attorney's Office here in Cleveland, demonstrate how federal authorities can assist state, and local law enforcement officials in addition to parcelling out federal grant money.

- As you are all aware, the Department of Justice's number one priority is the drug problem, both in Northern Ohio and across the nation. The efforts of the Department, in combating this

PROBLEM, CAN BE DIVIDED INTO A WAR ON THE DEMAND FOR DRUGS AND A WAR ON THE SUPPLY OF DRUGS.

ON THE DEMAND SIDE, THE UNITED STATES ATTORNEY'S OFFICE, UNDER THE DIRECTION OF UNITED STATES ATTORNEY PATRICK M. MCLAUGHLIN, HAS RECOGNIZED THE NEED TO CREATE AN ENVIRONMENT OF ZERO TOLERANCE FOR DRUG USE THROUGH DRUG PREVENTION AND EDUCATION PROGRAMS. BECAUSE OF THE HIGH RATE OF ILLEGAL DRUG USE IN OUR SOCIETY AND ITS DEBILITATING EFFECTS ON OUR CITIZENS, THE UNITED STATES ATTORNEY FORMED THE NORTHERN OHIO DRUG ABUSE AWARENESS AND PREVENTION TASK FORCE. THIS TASK FORCE IS THE CATALYST IN NORTHERN OHIO FOR THE DEVELOPMENT OF AN ENTIRE COMMUNITY-BASED ATTACK ON DRUGS AND ALCOHOL THROUGH EDUCATION AND PREVENTION PROGRAMS, ACTIVITIES, AND INITIATIVES.

THE TASK FORCE WAS FORMED AT A CONFERENCE IN SEPTEMBER OF 1986, WHICH WAS ATTENDED BY MORE THAN 750 PEOPLE REPRESENTING ALL SEGMENTS OF THE COMMUNITY. IN CREATING THE TASK FORCE, THE UNITED STATES ATTORNEY WAS SUCCESSFUL IN OBTAINING THE INPUT AND SUPPORT OF FEDERAL, STATE, AND LOCAL AGENCIES AND ORGANIZATIONS. IN ORDER TO ACCOMPLISH THIS NEW STRATEGY, DESIGNED TO BETTER IDENTIFY THE ELEMENTS AND SUPPORT MECHANISMS IN OUR COMMUNITIES, THE UNITED STATES ATTORNEY URGED THAT A MORE COORDINATED, STATEWIDE APPROACH TO THE PROBLEMS OF DRUG ABUSE BE DEVELOPED. AS A RESULT, THE CONFERENCE ATTENDEES THEREAFTER SUBDIVIDED OHIO'S NORTHERNMOST 40 COUNTIES INTO SIX (6) AREA GROUPS. A CHAIRPERSON AND CO-CHAIRPERSON WERE DESIGNATED FOR EACH AREA TASK

FORCE. THESE PERSONS, IN ADDITION TO REPRESENTATIVES FROM STATE GOVERNMENT AND THE HEALTH PROFESSIONS, ARE MEMBERS OF A CENTRAL COMMITTEE CHAIRED BY THE UNITED STATES ATTORNEY. EACH AREA TASK FORCE IS SUPPORTED BY AN EXECUTIVE COMMITTEE INCLUDING COUNTY GROUPS AND LOCAL ORGANIZATIONS.

AS A DIRECT RESULT OF THIS INITIATIVE, EACH OF THE AREA GROUPS HAS DEVELOPED ITS OWN OUTREACH AND NETWORKING SYSTEMS. ADDITIONALLY, COUNTLESS PROGRAMS AND INITIATIVES FROM THROUGHOUT THE DISTRICT HAVE BEEN DEVELOPED, COORDINATED, AND PRESENTED TO COMMUNITIES IN AN EFFORT TO INCREASE VISIBILITY OF AVAILABLE PROGRAMS, SERVICES, AND APPROACHES IN EDUCATION AND PREVENTION WHICH HAVE BEEN SUCCESSFUL IN COMBATING DRUG ABUSE. MOST IMPORTANTLY, THESE EFFORTS HAVE ENCOURAGED NETWORKING ACROSS COUNTY LINES.

AS WORD ABOUT THE ACTIVITIES OF THE TASK FORCE SPREAD THROUGHOUT THE STATE, MEMBERS OF THE U.S. ATTORNEY'S OFFICE HAVE REGULARLY BEEN ASKED TO PRESENT INFORMATION AND PARTICIPATE IN DISCUSSIONS ON THE IMPORTANCE OF COMMUNITY INVOLVEMENT IN REDUCING THE APPETITE FOR DRUGS, AND THE POTENTIAL IMPACT FOR CURTAILING CRIME AND CRIMINAL BEHAVIOR BY ATTACKING THE DEMAND SIDE OF THE PROBLEM. THESE INITIATIVES AND CONCEPTS HAVE BEEN PRESENTED TO PROSECUTORS' ASSOCIATIONS, NARCOTICS PREVENTION ASSOCIATIONS AND CRIME PREVENTION ASSOCIATIONS. ADDITIONALLY, MANY OTHER ORGANIZATIONS AND SERVICE CLUBS, SUCH AS KIWANIS, ROTARY CLUBS, COLLEGE CRIME PREVENTION FAIRS, AND LOCAL AREA HIGH SCHOOLS, HAVE BENEFITED FROM THESE PRESENTATIONS.

THE UNITED STATES ATTORNEY HAS CALLED UPON THE MEDIA TO TAKE AN ACTIVE ROLE IN ASSISTING AND FACILITATING DRUG ABUSE AWARENESS AND PREVENTION EFFORTS. ALL MEDIA SOURCES IN NORTHERN OHIO HAVE BEEN PERSONALLY INVITED TO INVOLVE THEIR ORGANIZATIONS IN THESE EFFORTS. THERE HAS BEEN A REMARKABLE INCREASE IN THE WAY THE MEDIA VIEWS THE PROBLEM OF SUBSTANCE ABUSE IN OHIO, AND THERE HAS BEEN, GENERALLY, EXCELLENT COVERAGE WHEN THE AREA TASK FORCE CONDUCTS MEETINGS, PROGRAMS, AND WORKSHOPS.

THE UNITED STATES ATTORNEY, PATRICK M. MCLAUGHLIN, HAS BEEN OUTSPOKEN IN CALLING UPON THE STATE OF OHIO TO ASSUME A LEADERSHIP ROLE IN ASSISTING AND COORDINATING EFFORTS AIMED AT PROVIDING LAW ENFORCEMENT, COMMUNITY, AND EDUCATIONAL AGENCIES WITH THE NEEDED TRAINING, PERSONNEL, SUPPLIES, AND FINANCIAL RESOURCES. AS A MEMBER OF THE OHIO GOVERNOR'S LAW ENFORCEMENT LIAISON COMMITTEE AND OHIO COALITION AGAINST CRIME, THE UNITED STATES ATTORNEY SOUGHT THE DEVELOPMENT OF A COMPREHENSIVE STATEWIDE STRATEGY TO ADDRESS THE CURRENT PROBLEMS OF DRUG SUPPLY AND DEMAND.

I'M SURE YOU WILL AGREE FROM THE LITTLE YOU HAVE HEARD THAT THE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF OHIO HAS DONE AN ADMIRABLE JOB OF COORDINATING EFFORTS IN OHIO TO REDUCE BOTH THE SUPPLY AND DEMAND FOR ILLICIT DRUGS. BUT THERE IS MORE.

THE SERVICES OF THE OFFICE OF THE UNITED STATES ATTORNEY HAVE BEEN RECOGNIZED BY THE DEPARTMENT OF JUSTICE AS THE NORTHERN OHIO DRUG ABUSE AWARENESS AND PREVENTION TASK FORCE WAS NOMINATED IN 1987 FOR THE PRESIDENT'S VOLUNTEER ACTION AWARD.

ON THE SUPPLY SIDE, THE UNITED STATES ATTORNEY'S DETERMINATION THAT THE WAR AGAINST DRUGS SHOULD BE THE MAJOR PROSECUTION PRIORITY HAS CAUSED HIM TO MAKE AN UNPRECEDENTED ATTEMPT TO DEVELOP COOPERATIVE EFFORTS TO INVESTIGATE AND PROSECUTE DRUG LAW VIOLATORS. SPEARHEADED BY THE UNITED STATES ATTORNEY'S ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF), FEDERAL AND LOCAL CASES HAVE BEEN SUCCESSFULLY INVESTIGATED AND PROSECUTED IN CANTON, MASSILLON, AKRON, CLEVELAND, CLEVELAND HEIGHTS, SHAKER HEIGHTS, PARMA, AND LAKEWOOD.

AS A RESULT OF THOSE INVESTIGATIONS, SOME 20 LOCAL POLICE OFFICERS HAVE BEEN DEPUTIZED AS SPECIAL DEPUTY U.S. MARSHALS IN ORDER TO FACILITATE THEIR INVOLVEMENT IN MAJOR DRUG INVESTIGATIONS IN THEIR RESPECTIVE COMMUNITIES. TO DATE THESE INVESTIGATIONS HAVE RESULTED IN THE ARREST AND SUCCESSFUL PROSECUTION OF 55 INDIVIDUALS ENGAGED PRIMARILY IN THE DISTRIBUTION OF COCAINE. MANY OF THESE CASES DEVELOPED IN RESPONSE TO THE NEED TO PURSUE INVESTIGATIVE LEADS WHICH EXTEND BEYOND THE LOCAL JURISDICTION OF THE PARTICIPATING STATE OR LOCAL AGENCY AND TO TAKE ADVANTAGE OF FEDERAL STATUTES IN THE AREAS OF CONSPIRACY, MONEY LAUNDERING, AND FORFEITURES.

In one investigation local police officers actually manned a court-authorized wiretap in conjunction with federal agents, which resulted in the ultimate arrest of not only the local distributors, but the foreign suppliers, who were operating out of New York. Several vehicles were seized, and presently pending in federal court is an action to forfeit two homes that were used in the drug activity. Equitable sharing requests from the involved local law enforcement agencies addressing those items are being processed.

In addition, presently pending are forfeitures that will result in over $100,000 being returned to local law enforcement through the equitable sharing programs for use in their efforts to combat crime. Some other examples of the use of the federal forfeiture statutes to enable the return of money, vehicles, and other property to local law enforcement should be noted. The Stark County Metro Narcotics Unit has received approximately $22,000 and has another request pending for $3,000. The Bedford Heights Police Department has received approximately $11,000. The Cuyahoga County Sheriff's Office received approximately $36,000.

Perhaps the most vivid example of steps taken by the United States Attorney to encourage the cooperative use of investigative resources has been the formation of the Caribbean Task Force. Following consultation with various state and local agencies it was determined that the greater Cleveland area was faced with the

SPECTER OF VIOLENCE FROM GANGS FROM THE CARIBBEAN AREA WHO WERE ATTEMPTING TO GAIN A FOOTHOLD IN THE COCAINE MARKET. THE POTENTIAL ORGANIZED AND VIOLENT NATURE OF THESE GANGS REVEALED THAT NO ONE INVESTIGATIVE AGENCY ALONE COULD SUCCESSFULLY DETERRING THEIR GROWTH OR EXPANSION INTO THE NORTHERN DISTRICT OF OHIO.

WORKING THROUGH THE UNITED STATES ATTORNEY'S DRUG TASK FORCE, THERE HAS BEEN A COORDINATED EFFORT TO MESH SHARED CONCERNS OF THE LEADERS OF SEVERAL STATE AND FEDERAL AGENCIES CONCERNING THE OPERATION OF THE CARIBBEAN TASK FORCE. THESE AGENCIES INCLUDE THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, U.S. CUSTOMS SERVICE, FEDERAL BUREAU OF INVESTIGATION, IMMIGRATION AND NATURALIZATION SERVICE, INTERNAL REVENUE SERVICE, OHIO BUREAU OF CRIMINAL INVESTIGATION, CLEVELAND POLICE DEPARTMENT HOMICIDE AND NARCOTICS UNITS, AND SHAKER HEIGHTS POLICE DEPARTMENT, WITH ADDITIONAL PARTICIPATION FROM THE CUYAHOGA COUNTY PROSECUTOR'S OFFICE. CITY OF CLEVELAND POLICE CHIEF HOWARD RUDOLPH, WHO IS SCHEDULED AS A WITNESS HERE TODAY, HAS BEEN AN INTEGRAL PART OF THE FORMATION AND SUCCESS OF THE CARIBBEAN TASK FORCE.

THE UNITED STATES ATTORNEY'S OFFICE, THROUGH ASSISTANCE FROM THE DEPARTMENT OF JUSTICE, HAS SECURED SEPARATE OFFICE SPACE FOR THE OPERATION OF THE CARIBBEAN TASK FORCE AND HAS COORDINATED BASICS SUCH AS THE ACQUISITION OF EQUIPMENT, FURNITURE AND

TYPEWRITERS. THIS HAS ENABLED OFFICERS FROM VARIOUS AGENCIES TO SPEND MUCH MORE TIME AT A COMMON LOCATION DEVELOPING THEIR CASES.

SINCE ITS INCEPTION, THE CARIBBEAN TASK FORCE HAS ALSO CONDUCTED ACTIVITIES THAT HAVE INVOLVED EXTENSIVE COOPERATION FROM POLICE DEPARTMENTS IN EAST CLEVELAND, BEDFORD, MAYFIELD HEIGHTS, AND WARRENSVILLE. THE UNIFICATION OF THESE INVESTIGATIVE RESOURCES, IN A COMMON EFFORT, IS UNPRECEDENTED WITHIN RECENT MEMORY AND HAS RESULTED IN THIRTEEN STATE AND EIGHT FEDERAL INDICTMENTS INVOLVING INDIVIDUALS ASSOCIATED WITH THE ILLICIT DISTRIBUTION OF COCAINE WITHIN THE DISTRICT.

THE FOUR ATTORNEYS ASSIGNED TO THE U.S. ATTORNEY'S DRUG TASK FORCE DEVOTE 100 PERCENT OF THEIR TIME TO DRUG INVESTIGATIONS AND PROSECUTIONS. IN ADDITION, SIX CRIMINAL DIVISION ATTORNEYS WITHIN THE UNITED STATES ATTORNEY'S OFFICE DEVOTE APPROXIMATELY 25 TO 40 PERCENT OF THEIR TIME TO THE INVESTIGATION AND PROSECUTION OF SUCH CASES.

ALTHOUGH DRUG ABUSE IS THE NUMBER ONE PRIORITY OF THE DEPARTMENT AND OF U.S. ATTORNEY PATRICK M. MCLAUGHLIN, OTHER INITIATIVES SPEARHEADED BY HIS OFFICE HAVE CONTRIBUTED GREATLY TO JOINT INVESTIGATIVE AND PROSECUTIVE EFFORTS.

I WOULD LIKE TO TOUCH ON TWO OF THESE AT THIS TIME. THE LAW ENFORCEMENT COORDINATING COMMITTEE (LECC), [1/] WHICH HAS BEEN DEVELOPED IN THE DISTRICT BY THE UNITED STATES ATTORNEY, CREATED A VIOLENT CRIME SUBCOMMITTEE. THAT SUBCOMMITTEE OVER THE PAST YEAR HAS WORKED DILIGENTLY TO PREPARE A DOCUMENT WHICH CONTAINS GUIDELINES FOR JOINT FEDERAL AND STATE LAW ENFORCEMENT COLLABORATION IN AN EFFORT TO IDENTIFY AND PROSECUTE VIOLENT RECIDIVIST OFFENDERS. THE SUBCOMMITTEE HAS AGREED UPON A COMMON DEFINITION OF VIOLENT CRIME. STATE AND FEDERAL OFFENSES REQUIRING MANDATORY PRISON TERMS AND ENHANCED SENTENCING PROVISIONS HAVE BEEN IDENTIFIED.

THE SUBCOMMITTEE HAS ATTEMPTED TO FOCUS POLICE EFFORTS ON OFFENDERS WHO ARE AMONG THE MOST VIOLENT AND DANGEROUS TO THE SAFETY OF THE COMMUNITY, BASED ON THEIR PRIOR CRIMINAL HISTORY AND THE CIRCUMSTANCES OF PRESENTLY COMMITTED CRIMES.

THIS DOCUMENT REFLECTS THE SUBCOMMITTEE'S STRONG SUGGESTION THAT LAW ENFORCEMENT, ON THE FEDERAL, STATE, AND LOCAL LEVELS, SHOULD "MONITOR" THE ACTIVITIES OF KNOWN PAST VIOLENT OFFENDERS WHEN THERE IS REASON TO BELIEVE THEY MAY BE PLANNING FURTHER

1/ IN 1981, ATTORNEY GENERAL WILLIAM FRENCH SMITH'S TASK FORCE ON VIOLENT CRIME ORIGINATED THE CONCEPT OF LAW ENFORCEMENT COORDINATING COMMITTEES (LECCS) TO ENSURE LAW ENFORCEMENT COOPERATION IN EACH OF THE 94 JUDICIAL DISTRICTS. TODAY, THE UNITED STATES ATTORNEY, IN MOST OF THESE DISTRICTS, SERVES AS CHAIRMAN OF HIS OR HER DISTRICT'S LECC.

CRIMINAL ACTIVITY. A COORDINATION PROCEDURE HAS BEEN ESTABLISHED WHEREBY COUNTY PROSECUTORS AND AN ASSISTANT UNITED STATES ATTORNEY WILL EVALUATE SIGNIFICANT VIOLENT CRIME CASES TO DETERMINE THE MOST APPROPRIATE FORUM IN WHICH TO PROSECUTE THE CASE. THE SUBCOMMITTEE IS ALSO CONSIDERING PLANS TO "CROSS-DESIGNATE" PROSECUTORS IN ORDER TO ACCOMPLISH THE LONG TERM GOALS OF THE PLAN. 2/

THE OTHER AREA WHERE A CONCENTRATED LAW ENFORCEMENT EFFORT HAS BEEN QUITE SUCCESSFUL IS IN THE INVESTIGATION AND PROSECUTION OF CHILD PORNOGRAPHY MATTERS. SINCE THE CHILD PROTECTION ACT OF 1984 WAS SIGNED INTO LAW BY PRESIDENT REAGAN ON MAY 21, 1984, THE UNITED STATES ATTORNEY'S OFFICE FOR THE NORTHERN DISTRICT OF OHIO HAS CHARGED A TOTAL OF 31 DEFENDANTS. FIFTEEN INDICTMENTS RETURNED ON AUGUST 13, 1986, AT THAT POINT, REPRESENTED THE LARGEST NUMBER OF INDICTMENTS RETURNED AT ANY ONE TIME UNDER THAT ACT. AMONG THE CONVICTIONS OBTAINED BY THE NORTHERN DISTRICT OF OHIO SINCE 1984, WAS THE FIRST CASE IN THE COUNTRY TRIED TO A JURY AND THE FIRST CASE TO UPHOLD THE CONSTITUTIONALITY OF THE CHILD PROTECTION ACT. THIS CASE, UNITED STATES V. TOLCZEKI, WAS CITED IN THE RECENT REPORT OF THE ATTORNEY GENERAL'S COMMISSION ON PORNOGRAPHY.

2/ THE DESIGNATION OF STATE AND LOCAL PROSECUTORS TO SERVE AS SPECIAL ASSISTANT UNITED STATES ATTORNEYS (SAUSAS) OR THE

(FOOTNOTE CONTINUED)

In March 1985, United States Attorney McLaughlin invited the United States Postal Service, U.S. Customs Service, and the Federal Bureau of Investigation to participate in a joint Task Force against child pornography in this district. Shortly thereafter, the Sex Crimes Unit of the Cleveland Police Department was invited to join the Task Force.

On July 19, 1985, Mr. McLaughlin hosted the first Law Enforcement Coordinating Committee (LECC) Training Seminar in this district. Over 200 federal, state, and local law enforcement officials attended this seminar. The subject of child pornography was one of the four main topics addressed at the seminar. The Central Committee of the LECC agreed wholeheartedly with Mr. McLaughlin's suggestion to form a Child Pornography and Obscenity Subcommittee. This Subcommittee has met several times and is now engaged in the production of "mini" training seminars throughout Northern Ohio.

On September 30, 1987, Mr. McLaughlin, in conjunction with D. Michael Crites, the United States Attorney for the Southern District of Ohio, hosted a symposium in Columbus, Ohio, on the investigation and prosecution of obscenity and child sexual exploitation cases. The symposium was extremely well received,

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(Footnote Continued)
designation of SAUSAs to serve as state or local prosecutors is a basic, long-standing part of the LECC program nationwide.

WITH APPROXIMATELY 250 FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT OFFICIALS AND OTHER PUBLIC OFFICIALS ATTENDING.

THE INVESTIGATION AND PROSECUTION OF CHILD PORNOGRAPHY IN THIS DISTRICT HAS BEEN GREATLY ENHANCED BY THE EXCELLENT COOPERATION AND INVESTIGATIVE TIME AND EFFORT OF THE U.S. POSTAL SERVICE UNDER THE DIRECTION OF MR. MEL MOORE, CHIEF, U.S. POSTAL INSPECTION SERVICE.

THE FIRST UNDERCOVER CHILD PORNOGRAPHY INVESTIGATION WAS INITIATED IN 1984 BY POSTAL INSPECTOR PAUL HARTMAN. UNDER THIS INVESTIGATION, REFERRED TO AS CHILD PORNOGRAPHY TESTING PROGRAMS I, INSPECTOR HARTMAN ENGAGED IN UNDERCOVER CORRESPONDENCE WITH TARGETED CHILD PORNOGRAPHERS BY ASSUMING THE ALIAS OF A PEDOPHILE. THE INVESTIGATION RESULTED IN 12 INDICTMENTS.

THE CHILD PORNOGRAPHY TESTING PROGRAM II WAS A MUCH MORE ELABORATE INVESTIGATION INVOLVING THE ESTABLISHMENT OF A PHONY FOREIGN CORPORATION THAT SOLD CHILD PORNOGRAPHY TO TARGETED CHILD PORNOGRAPHERS. THIS INVESTIGATION WAS INITIATED ONLY AFTER EXTENSIVE REVIEW BY THE U.S. POSTAL SERVICE, THE DEPARTMENT'S GENERAL LITIGATION AND LEGAL ADVICE SECTION, AND THE UNITED STATES ATTORNEY'S OFFICE. FOLLOWING THE ESTABLISHMENT OF VERY STRICT PROCEDURES, INFORMATION ON NUMEROUS INDIVIDUALS WAS REVIEWED AND THE INVESTIGATION BEGAN. THIS PROGRAM RESULTED IN THE INDICTMENT OF 15 CHILD PORNOGRAPHERS ON AUGUST 13, 1986.

IN SEPTEMBER OF 1987, TWO OTHER INDIVIDUALS WERE INDICTED FOR VIOLATIONS OF THE CHILD PORNOGRAPHY LAW, AFTER INVESTIGATION BY THE U.S. CUSTOMS SERVICE. THESE TYPES OF INVESTIGATIONS ARE CONTINUING.

MR. CHAIRMAN, THE EXAMPLES THAT I HAVE JUST GIVEN YOU ARE BUT A FEW OF THE EXCELLENT ACCOMPLISHMENTS OF THE UNITED STATES ATTORNEY'S OFFICE HERE IN THE NORTHERN DISTRICT OF OHIO THAT HAVE RESULTED FROM THE COMBINED EFFORTS OF LAW ENFORCEMENT OFFICIALS AT THE FEDERAL, STATE AND LOCAL LEVELS. I BELIEVE, AS DOES THE ATTORNEY GENERAL, THAT THESE TYPES OF INITIATIVES ARE EXTREMELY COST EFFECTIVE AND ARE IMPORTANT IN COMBATING THOSE CRIMES WHICH ARE OF THE GREATEST CONCERN NOT ONLY TO THE FEDERAL COMMUNITY, BUT ALSO TO LOCAL AND STATE LAW ENFORCEMENT OFFICIALS AND THE PUBLIC IN GENERAL. THESE PROGRAMS, WHETHER ADDRESSING THE DRUG PROBLEM, VIOLENT CRIME, OR CHILD PORNOGRAPHY, ARE EXCELLENT EXAMPLES OF HOW, THROUGH THE COMBINED COOPERATION OF LOCAL, STATE AND FEDERAL LAW ENFORCEMENT OUR STREETS, SCHOOLS AND COMMUNITIES CAN BE MADE SAFER FOR ALL CITIZENS.

I'LL BE PLEASED TO ATTEMPT TO RESPOND TO QUESTIONS ABOUT S. 1250 BUT WOULD ASK THAT YOU RECOGNIZE THAT MOST ASPECTS OF THAT BILL ARE STILL UNDER REVIEW WITHIN THE ADMINISTRATION WITH THE RESULT THAT A FINAL DETAILED POSITION HAS NOT YET BEEN DEVELOPED.

MR. CHAIRMAN, THAT COMPLETES MY PREPARED STATEMENT. I AM AVAILABLE TO RESPOND TO YOUR QUESTIONS.

1987 FORMULA GRANT AWARDS TO OHIO

1. Juvenile Justice

   Amount - $1,856,000

   Status - awarded 2/24/87

2. Anti-Drug Abuse

   Amount - $7,169,000

   Status - awarded $716,900 - 1/20/87
   (Administration-up to 10% of total allocation)

   - awarded $6,452,100 - 8/7/87

3. State & Local

   Amount - $1,226,000

   Status - awarded 3/6/87

4. Victims Fund (Compensation & Assistance)

   a. Compensation

      Amount - $2,056,000

      Status - awarded 12/10/87

   b. Assistance

      Amount - $1,247,000

      Status - awarded 9/30/87

1988 FORMULA GRANT AWARDS TO OHIO

1. Juvenile Justice

   Amount - $1,734,000

2. Anti-Drug Abuse

   Amount - $1,713,000

3. Victim Fund (Compensation & Assistance)

   a. Compensation

      Amount - $1,106,000

   b. Assistance

      Amount - $1,406,000

Senator **Metzenbaum**. Did you want—is it Carr or McCarr?

Mr. **McHargh**. McHargh.

Senator **Metzenbaum**. How do you spell it?

Mr. **McHargh**. M-C, capital H-A-R-G-H.

Senator **Metzenbaum**. Okay. Did you want to add to this statement, Mr. McHargh?

STATEMENT OF KEN McHARGH, OFFICE OF THE U.S. ATTORNEY'S OFFICE, NORTHERN DISTRICT OF OHIO

Mr. **McHargh**. Well, Senator Metzenbaum, I have been involved with the implementation of local efforts, if you will, which have been accomplished with an eye towards the budgetary concerns, I think.

I think the relationships that we have not taken full advantage of in the past that will enable us to do a better job with the limited resources available are important initiatives to take. I don't think we have taken full advantage of them in the past. I think the efforts we have directed ourselves to presently are designed to do that now.

The Task Force on Drug Abuse and Prevention, from a demand side; the local Federal—cooperative efforts, from an investigative standpoint, on the supply side, are things that we are able to accomplish which are generating successes, I think, from not only a prosecutor's standpoint, but from a seizure of assets standpoint, that money is then turned around and returned to the local agencies as another source of resources that are, by virtue of the legislation which Congress passed, directed specifically to go back into law enforcement efforts.

So by taking advantage of those initiatives and doing a better job of doing them, I think there are a lot of things that we can accomplish and, hopefully, are accomplishing within the District.

Senator **Metzenbaum**. Thank you very much, Mr. McHargh.

Mr. Whitley, unless you have anything further you want to add——

Mr. **Whitley**. No, sir. I can appreciate the Senator's positions, and you have heard and understand our positions. We would ask that you, if you have an opportunity to read our statement, see some of the things we are doing here in the Northern District, as Mr. McHargh indicates, in a joint cooperative effort with law enforcement, the likes of which has not been seen around this country in some time.

We would appreciate you taking a look at it, if you could, recognizing we are a small component of the Federal law enforcement community. The number of Federal agents we have is actually less than the number of sworn officers in the city of New York in our total FBI, DEA, and INS contingency.

We don't have that many people in Washington, so one of the things we are trying to do is balance out the priorities now that we submit to you. We are seeking some increase in the number of DEA agents, FBI agents and the people that will help us work with local law enforcement communities in stopping drugs at the border and stopping drugs in our local communities. We do see it as a serious problem.

From my point of view, as having been both a U.S. Attorney and having been a State prosecutor, I have never seen personally the cooperation I currently see in law enforcement in this country between Federal, State and local law enforcement. I think we are at a high water mark.

Senator METZENBAUM. Thank you very much, Mr. Whitley.

As a matter of fact, the next three witnesses, or two of them, are in law enforcement. One of them is the President of the Cleveland Police Patrolmen's Association, Mr. Joseph James; and then we have Mr. Howard Rudolph, the Chief of Police, city of Cleveland; and we have Dennis Love, Mayor of the city of Maple Heights, Ohio. If you have the time, we would be very happy to have you wait.

I might say that our last panel today will be—well, I guess it isn't our last. We will be hearing from some of the neighborhood groups who are prepared to tell you what has been accomplished with these funds. If you can't wait, we understand.

Mr. WHITLEY. I will sit and listen. Thank you.

Senator METZENBAUM. Thank you very much for being with us.

Is Mr. Howard Rudolph here, Chief of Police, City of Cleveland, or Mr. Joseph James, President of the Cleveland Police Patrolmen's Association—I know he's here—and Mr. Dennis Love, Mayor of the City of Maple Heights.

Mr. Rudolph, we will be very happy to hear from you, sir. We have indicated that we are trying to hold our witnesses to a 5-minute statement, but we will put your entire statement in the record.

STATEMENT OF A PANEL CONSISTING OF HOWARD E. RUDOLPH, CHIEF OF POLICE, CITY OF CLEVELAND, OH; JOSEPH JAMES, PRESIDENT, CLEVELAND POLICE PATROLMEN'S ASSOCIATION, CLEVELAND, OH; AND HON. DENNIS J. LOVE, MAYOR, CITY OF MAPLE HEIGHTS, MAPLE HEIGHTS, OH

Mr. RUDOLPH. Thanks very much, Senator. I want to thank you for inviting me here to appear before you, and also to be here with my friends and colleagues from the different neighborhood organizations and from the Re-Entry Program. It's a pleasure for me to come and speak in behalf of all the programs.

I have come here today to add my support for the Juvenile Justice Act and the Delinquency Prevention Act and to encourage continued Federal assistance for these two very worthwhile programs. Since 1985, the Juvenile Justice Act has supplied financial support to several effective and efficient programs which are currently in place in the city of Cleveland.

The Cleveland Police Department works very closely with the different organizations involved in both of these Act. The Cleveland Police Department realizes very well that it cannot accomplish the task that it has before us without the support and assistance and a good working relationship of the people that make up our city, the people in our neighborhoods.

The monies that are derived from the Federal programs enable us to have this relationship by enabling the people in our neighborhoods and the Re-Entry Program to have the funding so that they can be in existence. We in the city government would not have the ability to supply those funds. We just don't have that kind of money. We have to look somewhere to get that money. This is the area that we look upon. Without this funding, our city would not be in the position it is presently in, on a road to recovery. Without this funding, I believe that we would begin to go the other way.

Thank you very much for having me here this morning.

Senator METZENBAUM. Thank you, Mr. Rudolph.

[The prepared statement of Howard E. Rudolph follows:]

TESTIMONY FOR THE SENATE JUDICIARY COMMITTEE

JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAM

CHIEF HOWARD E. RUDOLPH, CLEVELAND POLICE DEPARTMENT

The Justice Assistance Act and the Juvenile Justice Delinquency Prevention Act have been important sources of funding for several successful and significant programs within the City of Cleveland.

While the police department itself has not received any funds through these Acts, the department has worked closely with all of the funded programs and has observed the positive impact these programs have had on the City and its' residents.

The Cleveland Department of Public Safety has received and distributed over $400,000 from the Justice Assistance Act since 1985. These monies have provided funding for the Neighborhood Safety Coalition, the Community Re-Entry Program, and the Task Force on Violent Crime as components of the "Cleveland Prevents Crime Program."

The Cleveland Neighborhood Safety Coalition is comprised of fourteen (14) neighborhood group members representing neighborhoods from all sections of the city, including 15 of the 20 statistical areas suffering from the highest rates of crime.

The Safety Coalition organizes neighborhood based crime prevention activities including crime watch programs, burglary prevention and safety awareness education, Auto-Watch and Child-Watch programs, and the creation of safe houses or block homes. The police department provides assistance to these programs through our Neighborhood Response Section which includes 36 mini-police stations, and the police auxiliary unit.

The Neighborhood Safety Coalition provides an essential element to the police-community partnership in crime prevention. It has become increasingly clear that law enforcement agencies in the United States cannot effectively reduce levels of crime without the active assistance and support of neighborhood residents. It is this awareness that has led to the creation of units such as the Cleveland Police Department's Neighborhood Response Section.

The mere creation of special units by police departments is not enough. There is a need for corresponding neighborhood organizations to provide the police with assistance and information. Neighborhood groups provide a ready-made organization available to distribute information and to identify areas of greatest need. These groups permit the police to make the most effective and efficient use of their precious resources. Effective neighborhood groups can multiply many times the efforts of the police in crime prevention and reduction.

In Cleveland, we have seen the Neighborhood Safety Coalition provide this type of assistance. The department's efforts in crime prevention have been multiplied by the organization and efforts of the Coalition. Many more people have been reached through the activities of the Neighborhood Coalition.

The second element of the Cleveland Prevents Crime Program is the Community Re-Entry Program. The Re-Entry program is administered by the Lutheran Metropolitan Ministry, in cooperation with the Presbytery of the Western Reserve, the Western Reserve Association of the United Church of Christ, the Commission on Catholic Community Action, the Episcopal Diocese of Ohio, and the Greater Cleveland Inter-Church Council. The Re-Entry program is an ex-offender rehabilitation project that attempts to break the cycle of repeat offenses that afflict so many offenders. In addition to counseling, the program provides felony ex-offenders with opportunities to help others.

The ex-offenders serve as safety escorts for elderly persons living in inner city housing projects. The escorts accompany senior citizens to banks, doctor appointments, and on shopping trips. The escorts are paid but, more importantly, they experience relationships of trust with people who might otherwise have been their victims.

The ex-offenders also provide counseling for juvenile offenders, gang leaders, and juvenile substance abusers. These sessions attempt to show juveniles the possible consequences of their actions and also provide another form of a trusting relationship for the adult ex-offender.

The ex-offenders also serve as supervisors in the Cleveland Metropolitan Housing Authority's Summer Youth Program. Together, these programs are designed to provide an enhanced feeling of self-esteem for the ex-offenders as a critical component of their rehabilitation. Senior citizens and juveniles also benefit from this program.

The third element of the Cleveland Prevents Crime Program is the Task Force on Violent Crime. The Task Force is a broad-based coalition of groups including representatives from the City of Cleveland, Cuyahoga County, Common Pleas Court, Juvenile Court, and local social service, religious, and medical organizations. The Task Force has attempted to identify solutions to help reduce the incidents of violent crime in the city's Central neighborhood.

Together, these three programs represent an effort to improve the quality of life in the city by preventing crime. Neighborhood watches, counseling and employment of ex-offenders, and the prevention of violent crime are all initiatives that can clearly improve living and working conditions in the city of Cleveland.

The City also has received funds from the Juvenile Justice Delinquency Prevention Act. Monies from this Act have been used to implement the Substance Abuse Program.

The Substance Abuse Program provides out-patient counseling services for juveniles and their families living in the Glenville, Hough, Collinwood, Central, and St. Clair/Superior neighborhoods of Cleveland. The program focuses on family conflict issues which result in unruly and incorrigible behavior, school behavior problems and substance abuse problems. The intention of the program is to intervene in problem areas before the juvenile's behavior reaches the point where institutionalization is required.

Like the Cleveland Prevents Crime Program, the Substance Abuse Program is an effort at crime prevention. All of these programs are particularly valuable in the city as their successes will improve the quality of life for all our citizens.

Everybody gains from successful crime prevention programs; citizens who would otherwise become victims are spared that anguish; neighborhood residents who do not have their lives twisted by fear; communities who do not have to pay the costs for police investigations; and, in many cases, youths who might otherwise drift into lives of criminal activity and prison terms.

Senator **Metzenbaum**. We are happy to see you, Mr. James, and speaking for the Cleveland Patrolmen's Association.

STATEMENT OF JOSEPH JAMES, PRESIDENT, CLEVELAND POLICE PATROLMEN'S ASSOCIATION, CLEVELAND, OH

Mr. **James**. Thank you, Senator.

I am submitting my testimony, and I concur with the chief. We at the Cleveland Patrolmen's Association believe that the Justice Assistance Act is a necessary entity in order that we can adequately protect our community and work within our community with our citizens.

If I might, I will read my prepared statement. I would like to start off with a former Mayor, Mayor Ralph J. Perk's statement. "One of the most precious freedoms of all is the freedom to move about in one's community safely and without fear."

The concerns that contribute to the public's fear are stranger-to-stranger crimes and burglaries. The public's fear of crime and concern for public safety are among the reasons for the migration trends. In order to successfully reverse this trend, it is necessary to have a wide range of anti-crime activities to fully meet the needs of Cleveland.

The Justice Assistance Act was written to resolve some of the basic casual factors of crime. Both burglary and robbery involve the loss of property. Burglary also involves the invasion of privacy; in robbery, the use of force and the threat of injury.

Effective crime reduction includes eliminating the causes of crime and controlling the effects of criminal behavior, thus improving the community's conditions that cause or allow crimes to occur, as well as improving the ability of the criminal justice system, the police, courts and corrections, to prevent and control the effects of criminal behavior.

The law enforcement agency, by maintaining law and order, provides a service to the community, not only by enforcement, but through prevention as well. The police officer, whether assigned to a beat or a zone, involves himself in frequent and close contact with the community, thereby enabling him to identify circumstances leading to delinquent or criminal behavior. Ideally, he may help to prevent crime in these circumstances by directly intervening or by calling upon appropriate social agencies for assistance or referral.

In this capacity, the police officer assumes a diversionary role and works to keep persons out of the criminal justice system, rather than waiting for criminal activity to take place and then processing persons through this system. This is a discretionary area of a police officer's role that can have a significant effect in crime prevention. Traditionally, the police officer's role is not one of prevention, but of detection, deterrence and apprehension.

This increased emphasis on prevention will augment the traditional role, but also suggests the need for more manpower, selected and trained in community problems. In the area of detection, deterrence and apprehension, improved deployment techniques for existing resources will provide increased police effectiveness.

The police must have visibility for effective deterrence of criminal activity. Police presence poses the threat of quick detection and apprehension of potential offenders, in addition to easing the fears of potential victims. The largest single police activity is aimed at enhancing deterrent capability by providing high intensity, high visibility patrolling. This serves to discourage crimes of opportunity and spur-of-the-moment criminal attacks while, at the same time, engendering a feeling of greater security amongst the citizens.

The Cleveland Police Patrolmen's Association feels that the Cleveland Police Department itself is hard pressed to deliver quality and quantity of law enforcement services demanded by the society. The city of Cleveland covers 75.6 square miles, with a population of 546,543. The Cleveland Police Department is approximately 1,692 men and women, with 301 civilians, which averages to be 3.1 police officers per 1,000 population.

The Department itself is 75 percent supervision and support units. The effective rate of patrol officers of 1,000 is actually 1.1 due to the fact that one-third of the patrol officers are assigned to patrol duties. This all equates to less than adequate patrolling of the neighborhoods.

Senator, I might make myself clear on that. We have faced the reduction in patrol officers, and it's not the fault—I believe it's just the fault that we are losing our population. We support our supervisors and our administration in their deployment. They are doing the best that they can, but we feel that we need the Justice Assistance Act and the programs, the neighborhood programs that we have had, and we need new and more constructive programs. We believe that our chief is working effectively to work us within the community to, in effect, deter crime.

Several programs have been implemented toward improving the operational performance through introduction of modern technology, management tools and operational procedures, thus improving the ability of the police to prevent and control crime.

The city currently has a volunteer auxiliary patrol force, composed of community members. These community volunteers can be effective in reducing stranger-to-stranger crimes and burglary through the mere presence in the area, not to mention the fact of community pride. This citizens police group engages in nonhazardous police duties under the direct supervision of the police department.

Supplied with communication equipment, these auxiliary police augment the present police resources by reporting directly to the police any indication of criminal behavior in the neighborhood to which they have been assigned. They serve the neighborhoods from which they volunteered, and the ancillary benefit is the closer tie between the community and the police that this program brings about.

Mini stations, a division in the Community Response Unit, involves the police storefront outreach centers. These centers serve to establish a rapport within the community. It serves their lay legal needs, integrates the police with the community and provides youth guidance by example, and generally serves the community.

The Community Response Unit has felt the reduction of funding by losing approximately 20 officers. These officers, as others, are responsible for setting up Neighborhood Watch programs; Operation ID, a personal property identification system, is an effective method of discouraging the theft of easily convertible property; and other community crime prevention programs.

The Community Response Unit is responsible for the training for the Cleveland Police Prevents Crime Program. This program is the foundation of the programs which the CRU unit participates in to bring the community together to prevent crime, and is funded by the Justice Assistance Act.

Roll-call training provides for professional programming and standardization of roll-call training, as it relates to crimes. There presently exists a closed-circuit TV Roll-Call Training Program within the department. This activity covers not only those training programs presently being conducted, but the development of new approaches to training, as it relates to the community and crimes that exist.

Cooperative efforts between the Cleveland Police Department and the Federally assisted programs, such as the Cleveland Prevents Crime Program, Victim Impact Restitution Program, Elderly Victim Assistance Program and Elder Victim Assessment Program, upgrade the capacity of the criminal justice system to deliver public safety services.

These programs, along with the development of new ones, must continue so that Cleveland can provide its citizens the protection and the safety they are entitled to. These funds act as a successful attack on crime in the streets, but also as a catalyst for community programs that will build foundations of community pride and involvement, and bring significant and permanent benefits to all the citizens of Cleveland.

Thank you, sir.

Senator **Metzenbaum**. Thank you very much, Mr. James, for an excellent statement, and certainly a very supportive statement as to the value of the community-related programs.

I appreciate the fact that both you and Mr. Rudolph—here you have the chief of police, as well as the patrolmen's association, both agreeing that the program is so vital and necessary.

As I understand your testimony, if the Federal Government proceeds on its present program of totally eliminating any funding, that would be a tremendous setback for the programs that are now in existence in the neighborhoods. Is that correct?

Mr. **James**. To me, sir?

Senator **Metzenbaum**. Yes.

Mr. **James**. Yes, sir. We believe that that is correct.

Senator **Metzenbaum**. Chief Rudolph?

Mr. **Rudolph**. I agree.

Senator **Metzenbaum**. I also agree very strongly.

Mayor, we are so happy to have you with us today, the Mayor of Maple Heights, Ohio. We have now had a patrolman—or one who speaks for the patrolmen, we've had the chief of police, and we are very happy to have the mayor of the city of Maple Heights, a very well respected mayor and a very well respected community. We are happy to have you with us, sir.

STATEMENT OF HON. DENNIS J. LOVE, MAYOR, CITY OF MAPLE HEIGHTS, MAPLE HEIGHTS, OH

Mr. LOVE. Thank you, Senator. I appreciate being asked to be on this panel this morning, especially considering that I have just been in office for 3 months. I'm a new public official.

I have learned in the past 3 months, really, the financial conditions of the communities around. We all know about the loss of revenue-sharing funds, and I have learned about it firsthand. But I also can speak about the Justice Assistance Act because I was a police officer for 33½ years, the last 4½ years as chief of police before I retired and decided to run for mayor. So I know the benefits of this Justice Assistance Act and I know how much the communities would be hurting without this money.

Especially when you take communities like Maple Heights, where we have a 30 percent population of senior citizens——

Senator METZENBAUM. 30 percent?

Mr. LOVE. 30 percent population, and our population is 30,000, so we have a large senior community. And as we read daily in the paper, they are the victims of con games, pigeon drops, robberies and so forth.

Senator METZENBAUM. Violence?

Mr. LOVE. Oh, yes. Some of them violent and some of them aren't violent, especially the con games. But it doesn't matter how much is in newspapers about this; the next day, their neighbor is taken in by the same thing, even though they read it.

The only way we can educate them to be aware of these things is on a person-to-person basis. That is why we need our Neighborhood Watch Programs and our Crime Prevention Bureaus. Without the Federal assistance, there is no way that the communities like Maple Heights, Bedford, Garfield Heights, Lakewood, any one of them, can finance these programs nowadays because we are dipping into our general funds due to the fact of the loss of Federal revenue sharing, and we have to come up with monies to replace them.

So we definitely need the Federal Justice Assistance Act, and I hope that you and all the other Senators can do as much as possible to see that we continue to receive these funds.

Thank you.

Senator METZENBAUM. Thank you very much, Mayor.

Senator METZENBAUM. I want to thank each of you for participating and for your support. I think we are finding here today broad-based community support for the Justice Assistance Act and the other Federal programs that have been working. The sad fact is that the programs that seem to be working, they're going to be eliminated, or at least that is the administration's intent. The programs that haven't been working, I guess they will be continued on.

Thank you very much.

The committee at this point will take a 5-minute recess.

[Recess.]

Senator METZENBAUM. Our next panel, Debbie Webb, executive director of the Cleveland Neighborhood Safety Coalition; Sherline Johnson, vice president of the Cleveland Neighborhood Safety Coalition, and member of the Union Miles Development Corporation; and Charles See, director of the Community Re-Entry Program.

We are happy to have each of you with us. I think you heard, at an earlier point, that I have asked the witnesses to confine their statements to 5 minutes.

Debbie, we are very happy to have you, and please proceed.

STATEMENT OF A PANEL CONSISTING OF DEBBIE WEBB, EXECUTIVE DIRECTOR, CLEVELAND NEIGHBORHOOD SAFETY COALITION, CLEVELAND, OH; SHERLINE JOHNSON, VICE PRESIDENT, CLEVELAND NEIGHBORHOOD SAFETY COALITION, CLEVELAND, OH; AND CHARLES SEE, DIRECTOR, COMMUNITY REENTRY PROGRAM, CLEVELAND, OH

Ms. **Webb**. Senator, I am Deborah Webb of the Safety Coalition. I am here today to speak about the impact of the JA funding on the 15 neighborhoods that coalition groups work in.

In some Cleveland neighborhoods, people cannot leave their homes for fear of breakins; and in some senior complexes, the seniors will only leave their apartments for specific reasons, such as doctors appointments. Criminals lurk in the hallways of the complexes or outside the banks for the seniors cash their Social Security checks, waiting to pounce upon this easy prey or victim.

There are many pockets in our neighborhoods that have been taken over by drug users and thieves. Residents with enough financial resources will relocate elsewhere in the city or leave the city, if they can. Some neighborhoods are paralyzed by the fear to the point that efforts at revitalization are not effective.

We have millions of dollars pouring into downtown development. These newly developed facilities will be mainly used by commuters, not by the residents of Cleveland. The meager Federal dollars going into neighborhoods is better than none at all, but unless all aspects of redevelopment are part of the plan, the neighborhoods will continue to decay.

When people have enough economic resources to make a decision about where they will live, the chances are good that it will not be in a city where citizens are afraid for their lives, their property and their futures. People may continue to flee this city, and a reasonable tax base will be even farther from our reach.

This is a city that needs development; however, concrete and glass does not build neighborhoods—people do. People are afraid for good reasons. Violent and nonviolent crimes have increased recently. Cleveland has the reputation of being the auto theft capital of the country.

I don't want to paint—make it—

Senator **Metzenbaum**. Which capital of the country?

Ms. **Webb**. Auto theft.

Senator **Metzenbaum**. Auto theft?

Ms. **Webb**. Yes.

I do not want to paint a totally bleak picture. There are some solutions to these problems.

Senator **Metzenbaum**. Let me get the thrust—your first comments were that you felt that too much money is going into downtown programs and not enough into communities.

Ms. **Webb**. It's not in good proportion. I'm not saying that too much is going into downtown Cleveland; but in comparison to that, not enough is going into neighborhoods. And these are dollars where the decision is made at the Federal level. So I'm not saying that downtown Cleveland should be——

Senator **Metzenbaum**. You're not objecting to that which is going into downtown, but you are saying there isn't enough left for the neighborhoods?

Ms. **Webb**. Exactly.

What we have found to be an effective solution to some of these problems are the Crime Watch Program. About 15 neighborhood groups of the Safety Coalition have utilized Crime Watch successfully, to begin to address crime problems in their neighborhoods. In some areas, residents that have lived on the same street for years now know each other, are trained in crime prevention together, and are now active for the first time.

Apartment buildings and senior complexes and some neighborhoods use the build-and-watch system, looking out for each other, learning techniques to prevent crime from occurring. Public parks have been reclaimed by residents from drug users, vandals and others.

The list of our successes can go on and on. Statistics show that in the areas we target or concentrate our efforts in have a crime rate reduced by 25 percent or more. Because this is a citizen-based program, the incentive for other residents to join in is greater. It becomes a team effort with the police department, residents and others. Because of the citizen-based participation, this is one of the most cost-effective Government funded programs in the country.

Senator **Metzenbaum**. How much do you have available, total, for the Neighborhood Safety Coalition Program?

Ms. **Webb**. Available from?

Senator **Metzenbaum**. From Federal Government, city, State, whatever.

Ms. **Webb**. By the end of this year, the end of 1988, over a 3-year period, our budget will be approximately $1 million. A third of that will have been JA funds, a small percentage will be block grant funds, and the remainder will be from private foundations.

Senator **Metzenbaum**. What is the money mainly used for?

Ms. **Webb**. 90 percent of the funds are for staff people to staff these programs in the 15 neighborhoods.

Senator **Metzenbaum**. Do you feel that it is cost-effective?

Ms. **Webb**. Very cost-effective. With one staff person per group, the program has been very successful, and the staff people are experts in recruiting volunteers, getting them trained, and having the volunteers expand the base of the program.

Senator **Metzenbaum**. How many people are involved in the Neighborhood Watch Program, Neighborhood Safety Coalition, in Cleveland or in this area?

Ms. **Webb**. Well, it's difficult to say with 15 groups, all at different levels. I can say that in the last 2½ years, we have worked with at least 10,000 residents, having them trained and work with the program.

Senator **Metzenbaum**. If the Federal funding is eliminated, what will happen to the program?

Ms. **Webb**. I'm afraid to say that if funding is not reinstated, we may not be in existence 1 year from now.

Senator **Metzenbaum**. You may not be in existence a year from now?

Ms. **Webb**. Right. While JA funding has only made up a third of our budget, it is the cornerstone of the budget.

Senator **Metzenbaum**. Thank you very much.

Ms. **Webb**. Thank you.

Senator **Metzenbaum**. Sherline Johnson, the vice president of Cleveland Neighborhood Safety Coalition. This is the same group, as I understand it.

Ms. **Johnson**. Yes, the same group.

Senator **Metzenbaum**. Fine. We are happy to have you with us. You are also a member of the Union Miles Development Corporation?

Ms. **Johnson**. That is correct.

Senator **Metzenbaum**. Please proceed.

STATEMENT OF SHERLINE JOHNSON, VICE PRESIDENT, CLEVELAND NEIGHBORHOOD SAFETY COALITION, CLEVELAND, OH

Ms. **Johnson**. My name is Sherline Johnson, and I have been a resident of the Union Miles neighborhood for 12 years, and I have been involved with community activities for 9 years.

The Union Miles neighborhood is one of the poorest neighborhoods, with one of the highest crime rates. After years of watching the area decline and fall into the hands of criminals, I am seeing a comeback. I am seeing residents begin to stand up and take an active part in saving our neighborhood.

A large part of this is because residents are involved in the Union Miles Development Corporation's Crime Watch Program. This Crime Watch Program has brought together the residents and the Cleveland Police together for the first time and, together, we are resolving some of our longstanding crime problems.

I would like to take a moment to share with you a few of our problems and successes. One of our streets, East 114th Street, had been a longstanding target for theft and breakins. The residents on the north end of the street, through the Crime Watch training, were able to spot and report breakins in progress, leading to the arrest of the thieves.

On the south end of the street, the apartment building had been rented as a group home for the mentally disabled. Unfortunately, it was one of those homes that did not develop resources for, or supervise its clients. As a result, they were easy prey for the criminals. And the criminals did commit numerous crimes against the vulnerable group of residents.

At the same time, there were gangs of youth hanging around, drinking, gambling, doing drugs. There were breakins after breakins. They stole items to sell to keep up their drug habits. After a while, all types of criminals had a great population to prey upon: the unsupervised mentally disabled, senior citizens and small children.

By working with our community group and the Crime Watch Program, we had a large public meeting and came up with a plan.

First, we met with the police District Commander, and then the council person, then with the mayor. All of these people, some of their staff and community residents got a hand—got first hands on a guided tour of the area. Then we were taken seriously.

The police department and the neighborhood police station conducted a surveillance that resulted in 40 arrests. The mentally disabled clients were placed in a structured, supervised living arrangement in another building. More residents were trained and participated in the Crime Watch Program. Now we have our street back. As a result, more residents have faith in their ability to fight crime.

We have had numerous requests for Crime Watch training from East 106th Street to East 131st Street, and these residents are trained and working together now. The ability to turn these areas of our neighborhood around and because of the Crime Watch Program of the Cleveland Neighborhood Safety Coalition, anything that you can do to keep this Crime Watch Program going will be appreciated, not only by myself, but others throughout the Cleveland area in the neighborhood groups. We believe that we can make a difference.

Senator METZENBAUM. Thank you very much, Ms. Johnson. The Union Miles area, I remember, not too many years ago was a wonderful residential neighborhood. I gather, from what you are saying, that the petty thieves, the drug addicts and the youth gangs pretty much took over the neighborhood——

Ms. JOHNSON. That's right.

Senator METZENBAUM [continuing]. And destroyed it. And that, by reason of the Crime Watch Program, there has been that element of rehabilitation, making it again an area in which people can now live with some sense of security. Is that pretty accurate.

Ms. JOHNSON. That's correct. Yes.

Senator METZENBAUM. What is your opinion as to what will happen if the Federal funding is not available for the Crime Watch Program? Ms. Webb has already said that she feels the program may fall apart totally if the money is not available. Do you think that the community would again become much more run down and be taken over by the——

Ms. JOHNSON. I think it will. I think that if the program does not continue, it will go back to the criminals, and the people will be more afraid to come out. As it is now, the people are willing to come out and help as long as they know the coalitions are behind them, that we can get to the people who can help. So I think that if we stick together and the funds are provided, we can do greater things.

Senator METZENBAUM. Excellent. Thank you very much. Your testimony has been very helpful, as has yours, Ms. Webb.

Mr. Charles See, Director of the Community Re-Entry Program.

First, will you tell us what the Community Re-entry Program is, Mr. See.

STATEMENT OF CHARLES SEE, DIRECTOR, COMMUNITY RE-ENTRY PROGRAM, CLEVELAND, OH

Mr. SEE. I would be delighted to, Senator. Community Re-Entry is a community-based corrections program that provides practical assistance and support to men and women who return to the community after a period of incarceration. The program is ecumenically sponsored by the church community here in town, the Catholics, Presbyterians, Lutherans, Episcopalians. The Methodists just recently joined us in the Greater Cleveland Interchurch Council. So we have a combination of the church community sponsoring a local community-based corrections program.

Senator METZENBAUM. Please proceed.

Mr. SEE. Certainly. I would like to express my personal thanks and appreciation to you and your staff and your colleagues for sponsoring and pushing this very important piece of legislation, the Justice Partnership Act.

With funding coming from that particular piece of legislation, we have been able, at Community Re-Entry, to develop some very important programs that have some, what I feel is some significant impact on the kind of crimes you have heard talked about here this morning.

Community Re-Entry uses a very unique approach to address some of these crimes, in that we use ex-offenders that have been carefully trained, well selected, to work in the communities where you have many of the problems that you've heard here this morning.

I would like to just read for you. We've got a program operating in one of the city's highest crime rate areas in the second district, at East 61st and Wilton. After operating that program for a year, this report was—an evaluation was conducted and this finding was brought forth.

It says, "Violent crime in the Kennedy Estates dropped about 17 percent this year after Federally funded crime prevention programs were launched in the neighborhood, according to figures released this week. Kennedy has not had a homicide in 1987, although at least 3 were reported in each of the last three years, officials said. Kennedy is in the Wilton and East 60th Street area. Records compiled by the Task Force on Violent Crime show that a number of reports of homicides, rape, robberies, assaults, burglaries, larcenies, auto thefts decreased from 362 in 1986 to 299 in 1987."

And the report goes on, "Also, the program provides practical assistance and support to senior citizens that live on the various estates in CMHA," the Metropolitan Housing Authority, some of the problems that these young ladies addressed here, senior citizens being able to come out.

Because of the funding we receive, we have been able to develop a network—a partnership, if you will; a partnership that involves local law enforcement agencies. I saw that Chief Rudolph was here a little earlier this morning. His officers and our program work very closely together. Local political officials have been very supportive of the programs that this kind of funding has been able to produce.

You've got the church community involved. You've got the corporate community that has come out and taken a real serious look. So the funding has brought about a partnership at the local level that's been able to impact crime in some very significant, some very significant ways.

We've got a service where we're using police officers in one of these crime areas to work with ex-offenders that provide services to youngsters, youngsters that are at risk. Without the kind of funding that's coming through from this kind of legislation, these kinds of programs definitely would not be available to this community.

We find that the program is cost-effective in that we are able to use volunteers. We are able to use citizens to participate in this effort. The fact that it reduces crime—there's no doubt about it. Statistics show that residents feel, if they've experienced an increased quality of life, they feel safer in the area where these kinds of programs are operating, and now they are coming out and they are taking part in making these programs successful. I think these kinds of programs have restored hope, restored faith and given people a new vision, that their community can be safe through their participation.

I also want to just speak for a moment, Mr. Senator, express my appreciation for the piece in the legislation that calls for the increase in benefits that goes to the family of officers slain in the line of duty. I don't think that we can do enough to support those families of those officers who have given their life in the defense of their community. I certainly want to encourage us to continue to be as mindful and as caring as we possibly can for those officers' families. I am sure that you and your staff will continue to do that.

Senator METZENBAUM. I'm glad to hear you say that because I think that the increase from $50,000 to $100,000 is maybe not enough, but I think it is realistic as to what we have a chance of passing. I think it is certainly something—to do less than that would be obscene.

Mr. SEE. Absolutely. We should do—and I'm sure will continue to do all that we can to see that those measures are met as adequately as we possibly can.

Just in closing, I also would like to express a word of appreciation for your staff persons that you have here in the area, specifically Mr. David Hoehnen, who's always on call on to us, who's easily accessible, and always responsive——

Senator METZENBAUM. Did he pay you for that? [Laughter.]

Mr. SEE [continuing]. In sensitive responses and being available. It's good to know that the Senator's office is but a phone call away and that we get some immediate response and an action-oriented response.

Senator METZENBAUM. Well, I agree with you. He does a great job. I would say that he was very instrumental in working with our Washington staff and causing this entire hearing to come into being. I know how strongly he feels and how supportive he is of this entire program.

Mr. SEE. Yes, sir.

Senator METZENBAUM. Thank you very much, Mr. See.

Tell me, is it your program, the Community Re-Entry Program, totally funded by the church groups that you mentioned, or is there any Federal funding in that?

Mr. SEE. We get some Federal funding through our partnership that comes through the State, and administered at the local level through the city. We get dollars from the State out of the Federal Government. It's a partnership with our neighborhood crime center.

Senator METZENBAUM. Very good. Thank you very much. Your testimony has been extremely helpful and very supportive of the efforts that we are undertaking at the Washington level to try to get this legislation reenacted. I am hopeful that we will be successful.

Our next and last panel consists of Kay Vine, chairwoman of the Governor's Counsel on Juvenile Justice; Marita Kavalec, executive director of the Community Youth Mediation Program; and Alene Hokenstad, Youth Out-Reach Worker, who I understand will bring two or three juveniles and students to speak briefly with respect to their own personal situation.

Kay Vine, we are happy to have you with us. I think you heard that we have a 5-minute limit with respect to statements.

Is Ms. Hokenstad here? Which one is Alene? Come on up. When we get to you, we will ask the young people to come up as well.

Kay Vine. I'm going to do this panel a little bit differently. Because in the past, there were no supporting witnesses; in this one, I will hear from the two of you and then ask the young people to join us.

STATEMENT OF A PANEL CONSISTING OF KAY VINE, CHAIRWOMAN, GOVERNOR'S COUNCIL ON JUVENILE JUSTICE, LAKEWOOD, OH; AND MARITA KAVALEC, DIRECTOR, COMMUNITY YOUTH MEDIATION PROGRAM, CLEVELAND, OH

Ms. VINE. Good morning, Senator Metzenbaum, members of the Judiciary Committee and staff. We very much appreciate the opportunity to be here and present our concerns about juvenile justice issues in the State of Ohio.

I am representing both the Governor's Council on Juvenile Justice, which I chair, and the Cuyahoga County Task Force on Juvenile Corrections, which I also chair.

The Governor's Council on Juvenile Justice was created by Executive Order in June 1984, in response to the Juvenile Justice Delinquency Prevention Act's mandate that each state receiving Federal JJDP funds establish a body to work with the Governor and the state planning unit in developing direction and implementation of the State's juvenile justice plans. In Ohio, the council works with the Governor's Office of Criminal Justice Services, as you heard earlier from the other witnesses.

In addition to its stated mission, goals and objectives, the council selected seven major areas of emphasis in its early planning development of its focus in Ohio.

I have given you copies of the mission and goals; I don't know that we need to go through those right now, but they are provided for your own information.

However, I will outline the areas of emphasis: Advising the Governor's Office of Criminal Justice Services and Governor on the status and needs of the juvenile justice system; developing programs that improve the system, as well as serve youth and their families; improving planning, coordination and networking of services to youth; developing programs and educational efforts that promote community awareness of the needs of youth; impacting State and national juvenile justice legislation; developing projects and initiatives for the removal of juveniles from adult jails and for other special emphasis programs; and ensuring the due process rights of juveniles.

These clearly reflect the spirit of the JJDP Act and have given impetus to setting forth directives in the State for those agencies who apply for funding. Our funding categories are: planning and management; pre-adjudication diversion from the juvenile justice system of youth; jail removal of young people from adult jails; alternatives to institutionalization; special programs for adolescent sex offenders and repeat violent offenders; deinstitutionalization of status offenders, and alternative programs to Department of Youth Services commitments.

These directives channel funds to State and local agencies to work to bring Ohio into compliance with Federal mandates and, more importantly, to provide the community with intervention efforts for the effective rehabilitation of young people in institutions and funding assistance for work in special initiative areas.

What I would like to share with you this morning a little bit more in depth is one of our special initiative areas. That is jail removal. In 1985, the council determined that Ohio continued to remain noncompliant with the JJDP Act in several areas. Previous attempts to resolve problems with offending county jails who were holding minors and seek alternatives to incarcerations in an adult facility for youth were unsuccessful. In almost all cases, the issue was lack of funds for alternatives and lack of information about the various alternative programs for detention of young people.

It is also significant that in 1985, 67 percent of the juveniles arrested were held by law enforcement bodies for noncriminal offenses. Only 3 percent of youth arrested that year were held for serious violent offenses. Holding over 3,000 youth a year in cells with an adult population was detrimental to youth. It's an undesired situation for county jails, and it puts the State in serious jeopardy for discontinuation of Federal funds.

Senator METZENBAUM. Give me that figure—67 percent of the youth that were held——

Ms. VINE. Of those arrested in the State, 67 percent of the youth were arrested for status offenses, which as you know are acts not considered criminal offenses in the adult statutes. Many of those juveniles, many of that 67 percent were inappropriately detained in adult jails.

Senator METZENBAUM. Give me some examples of status offenses.

Ms. VINE. Truancy from school; running away from home, which in many instances is caused by serious abuse problems; being charged with being incorrigible—perhaps acting out, talking loudly in an angry fashion to someone and, in many cases, perhaps with very justified reasons, because of aggravated situations that are presented to these young people.

In 1985, many of the law enforcement officers who were taking these young people to adult jails were working in rural counties which, because of distance, didn't have any other kind of alternative site to hold these youth.

Later in that same year, the council, along with the Governor's Office of Criminal Justice Services, made a commitment to a new approach to the situation. A portion of the JJDP funds allocated to Ohio were set aside for the sole purpose of funding jail removal projects.

In October of 1985, a special workshop session was held in Columbus for personnel from juvenile systems in targeted counties. Juvenile Court judges and sheriffs both attended. At the workshop, information was presented by members of the Governor's Council and GOCJS, with special information presented by Jim Brown, of Community Research Associates from OJJDP.

Subsequent to that session, staff of GOCJS went to counties to provide assistance, both in assessing possible alternatives and in grant writing. For relatively few dollars, $4,000 to $10,000 a year, there remain at this time only seven county jails in Ohio who continue to detain juveniles. So the number has come down from over 3,000 in 1985 to 238 in 1987.

In October 1987, the success of the jail removal initiative and the concerns about not allowing the numbers to climb again were presented to the Ohio Legislature's Select Committee on Child Abuse and Juvenile Justice. Subsequently, that committee expressed a willingness to work with a coalition to draft jail removal legislation for Ohio.

House Bill 792 was submitted to the Ohio Legislature on March 1, 1988, and is currently in Judiciary Committee. The Governor's Council, the Office of Criminal Justice Services and representatives of the Sheriff's Association, Juvenile Court Judges Association, the legislature and legal departments of juvenile courts worked on the draft, and met as recently as last Friday to fine tune the bill.

Local community efforts play a significant role in the area of juvenile justice also. I have mentioned the Cuyahoga County Task Force on Juvenile Corrections. This committee is comprised of a broad cross-section of community leaders who are about the business of developing a juvenile justice system that is responsive to the needs of its citizens, as well as the youth who enter that system. I have included its goals and objectives for you.

I have also asked Alene Hokenstad, from a JJDP-funded program at Merrick House, on the Near West Side of Cleveland, to present a little bit about that program and its impact on the community. Alene and LaVonne Davis, who is also an Out-Reach worker there, have encouraged some of our young people to come this morning and speak about the impact of JJDP funds on their lives and on the local community.

The background and information I bring you today, in my mind, points in one direction: monetary support is essential to achieve the mandates specified in the JJDP Act. While respecting the uniqueness of each State and local community and their individual needs, it is the appropriate role of the Federal Government to set standards for this country and assist in the attainment of those goals.

Elimination of juvenile justice funding, or significant cutbacks in funding, would seriously damage what progress has been made and, in many cases, sever ties that have been created between state government, judicial bodies, law enforcement departments and local community programs. Disconnecting these bonds would ultimately damage the children, youth and families who are served by them.

We commend you for your efforts. We appreciate, again, this time to share our concerns, and would be most happy to supply further information.

I believe I also gave you some copies of an extensive crime report and some issues around juvenile justice, which are available for you at a later time.

Senator **Metzenbaum**. Thank you very much. You are obviously giving very able leadership to the Juvenile Justice Task Force and the Governor's Council, and we appreciate it. We believe that the elimination of the Juvenile Justice Program funding, which is currently at $63,800,000, is absolutely being penny-wise and pound-foolish because, as I see it, we will pay such a tremendous price in future years if we don't do something to help our young people who are meeting some of the challenges that exist in the community today. So your testimony is very helpful and we are very grateful to you.

[The prepared statement of Kay Vine follows:]

10 March 1988

Testimony to the Senate Judiciary Committee / Senator Metzenbaum, Chair

From: Kay Vine, Chair of the Governor's Council on Juvenile Justice

This material is offered in addition to the outline submitted to your office, Senator, on March 9, 1988.

The Governor's Council on Juvenile Justice was created by Executive Order in June, 1984, in response to the Juvenile Justice Delinquency Prevention (JJDP) Act's mandate that each state receiving federal JJDP funds establish a body to work with the Governor and state planning unit in developing direction and implementation of the state's juvenile justice plans. In Ohio, the Council works with the Governor's Office of Criminal Justice Services (GOCJS).

In addition to its stated mission, goals, and objectives, the Council selected seven major areas of emphasis:

*Advising the Governor's Office of Criminal Justice Services and the Governor on the status and needs of the juvenile justice system;

*developing programs that improve the system as well as serve youth and their families;

*improving planning, coordination, and networking of services to youth;

*developing programs and educational efforts that promote community awareness of the needs of youth;

*impacting state and national juvenile justice legislation;

*developing projects and initiatives for the removal of juveniles from adult jails and for other special emphasis programs;

*ensuring the due process rights of juveniles.

These clearly reflect the spirit of the JJDPAct and have given impetus to setting forth directives for those agencies in Ohio who apply for funding. These funding categories are:

*Planning and Management
*Pre-Ajudication Diversion
*Jail Removal
*Alternatives to Institutionalization
*Adolescent Sex Offenders and Repeat Violent Offenders
*Deinstitutionalization of Status Offenders (Unrulies)
*Alternatives to Department of Youth Services Commitments

These directives channel funds to state and local agencies to work to bring Ohio into compliance with federal mandates and, more importantly, to provide community prevention and intervention efforts, effective rehabilitation for youth in institutions, and assistance for work in special initiative areas.

I would like to speak more in depth on one of these initiatives: jail removal. In 1985, the Council determined that Ohio continued to remain non-compliant with the JJDP Act in several areas. Previous attempts to resolve problems with offending county jails and seek alternatives to incarceration in an adult facility for a youth picked up by local law enforcement officers were unsuccessful. In almost all cases, the issue was lack of funds for alternatives and lack of information about the various alternative programs for detention.

It is also significant that also in 1985, 67% of the juveniles arrested were for non-criminal (per adult statutes) offenses. Only 3% of youth arrested were held for violent offenses. Holding over 3,000 youth a year in cells with an adult population was detrimental to the youth*; an undesired situation for county jails, and put the state in serious jeopardy for discontinuation of federal funds. (*The enclosed articles set forth the human aspect of the problem for youth detained. Many of them are seriously abused and become suicidal.)

The Council along with GOCJS made commitment to a new approach. A portion of the JJDP funds allocated to Ohio were set aside for the sole purpose of funding jail removal projects. In October, 1985, a special workshop session was held in Columbus for personnel from juvenile justice systems in targeted counties. Juvenile Court judges and sheriffs both attended.

At the workshop, information was presented by members of the Governor's Council and GOCJS with special information presented gy Jim Brown of Community Research Associates from OJJDP. Subsequent to that session, staff of GOCJS went to counties to provide assistance both in assessing possible alternatives for that community and in grant-writing. For relatively few dollars ($4,000 to $10,000 a year)there remain at this time only seven county jails in Ohio who continue to detain youth in adult jails.

In October, 1987, the success of the jail removal initiative and concerns about not allowing the numbers to climb again were presented to the Ohio Legislature's Select Committee on Child Abuse and Juvenile Justice. Subsequently, that Committee expressed a willingness to work with a coalition to draft jail removal legislation for Ohio. H.B. 792 was submitted to the Ohio legislature on March 1, 1988, and is currently in Judiciary Committee. The Governor's Council, GOCJS, and representatives of the Ohio Sheriff's Association, Juvenile Court Judges Association, the legislature, and juvenile court legal departments worked on the draft and met as recently as last Friday, March 4, 1988, to "fine tune" the bill.

Local community efforts play a significant role in the area of juvenile justice also. I have mentioned the Cuyahoga County Task Force on Juvenile Corrections. This committee is comprised of a broad cross-section of community leaders who are about the business of developing a juvenile justice system that is responsive to the needs of its citizens as well as the youth who enter that system. Its goals and objectives are outlined for you on the attached sheet from the Federation for Community Planning.

The background and information I bring to you today, in my mind, points in one direction: monetary support is essential to achieve the mandates specified in the JJDP Act. While respecting the uniqueness of each state and local community and their individual needs, it is the appropriate role of federal government to set the standards for this country and assist in the attainment of those goals.

Elimination of juvenile justice funding-- or significant cutbacks in funding-- would seriously damage what progress has been made and in many cases, sever ties that have been created between state government, judicial bodies, law enforcement departments, and local community programs. Disconnecting these bonds would ultimately damage the children, youth, and families who are served by them.

THE CHRISTIAN SCIENCE MONITOR

AN INTERNATIONAL DAILY NEWSPAPER   TUESDAY, OCTOBER 27, 1987

Many youths under 18, placed in cells with older inmates in local lockups, are emotionally and physically abused

By Curtis J. Sitomer
Staff writer of The Christian Science Monitor

Boston

An ugly underside of America's growing problem of prison overcrowding is the plight of arrested youths who end up as cellmates to hardened adult criminals.

Beatings, rapes, and suicides, as well as verbal and emotional abuse often attend such incarceration.

Recent cases in Idaho, Kentucky, Ohio, and Washington, D.C., have involved assaults on youngsters and, in many cases, deaths resulting from adult brutality behind bars. Other lawsuits are pending.

The jailing of youngsters under 18 is technically outlawed in most states and counties, and it is strongly discouraged by federal law. But, according to the San Francisco-based Youth Law Center (YLC), it is still done to some degree in 30 states.

Juvenile studies by the YLC and other agencies estimate that as many as 500,000 children – some as young as nine years of age – are put behind bars in adult jails and police lockups in the United States every year. In the large majority of these cases, youngsters are incarcerated for "status" offenses such as resisting discipline and running away, according to YLC director Mark Soler. "Most of these kids should not be jailed, he says."

Mr. Soler adds that jailing youngsters for offenses like petty theft or traffic violations "is ridiculous."

A United States Department of Justice study indicates that only 10 percent of

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jailed juveniles are charged with serious crimes. And only 1 in 4 has committed any crime at all. The rest are placed in custody as victims of abuse and neglect, the report says.

A University of Michigan youth policy specialist, Ira Schwartz, points out that, contrary to popular belief, violent youth "tend to commit crimes of violence against other juveniles . . . and not against the elderly and the public at large."

Professor Schwartz, a former administrator with the federal Office of Juvenile Justice and Delinquency Prevention, adds: "You are more likely to be hurt in your own home by someone you know than [by] a juvenile in the street."

Public officials and juvenile authorities from 42 states recently met in Boston to assess the problems of jailing children and to urge public authorities to pass and enforce – laws that would provide alternatives to prison for juvenile offenders.

Jay Lindgren, executive officer of juvenile release in the Minnesota Department of Correction, says that few youngsters who commit violent crimes are repeat offenders. Studies in his state show the typical young criminal is black and male – and a victim of violence himself.

"Every kid that is abused doesn't end up a murderer," Mr. Lindgren points out. "But almost all kid murderers have been abused."

Youth delinquency experts are urging renewed funding of a provision of the federal Juvenile Justice and Delinquency Prevention Act, which mandates that states that receive federal funds for youth programs remove minors from adult jails and lockups by the end of 1988. Several states are now seeking an extension of this deadline. Others, according to Soler, are willing to forgo public funds to keep juveniles incarcerated in the same facilities with adults.

The US Bureau of Justice Statistics reported last week that the population of the nation's local jails jumped 23 percent – to 274,400 – in a three-year period ending June 30, 1986, causing serious overcrowding. The report said the occupancy rate in large local jails across the nation was running 8 percent above rated capacity.

Some states argue that the costs of separate facilities for youthful offenders are prohibitive. And some also hold that youngsters – particularly older teen-agers – who commit violent crimes and are tried as adults should be imprisoned with adults.

As to costs, several studies show that it is far more expensive to incarcerate children in jails than to place them in supervised programs in the community. A 1983 Justice Department survey, for example, found that jailing a juvenile cost $24 a day while placement in a small group home averaged $17 a day, and home detention, $14.

A Maryland assessment (reported by YLC) found that "the cost of placing a youngster in a state correctional institution is between a reported $12,000 and $14,000 [per year], but the greater number of juveniles are being sent to group homes, which cost $8,230, or placed in foster care at a cost of $2,400."

Some states argue that the costs of separate facilities are prohibitive.

Several states – among them California, North Carolina, Tennessee, and Virginia – have passed laws recently banning the incarceration of children in adult jails.

In California, a new statute prohibits the holding of children in county jails – and it even limits the time that a youngster may spend in custody in a police station.

In Oregon, a federal court has ruled that any detention of children in adult jails constitutes a violation of their constitutional rights.

A variety of alternatives to incarceration of children are starting to "catch on," juvenile authorities report. Among them:

- Group home residential programs that include round-the-clock adult supervision, counseling, and educational and recreational opportunities.
- Foster care for youngsters who authorities believe will benefit from a stable, homelike environment.
- Wilderness programs that help young people develop self-confidence and the ability to work constructively with others in a group outdoor survival atmosphere.
- Community supervision where a probation officer or a trained paraprofessional oversees a youngster's program in the child's own home.
- Family court community aide programs that provide counseling and link a youth in trouble with neighborhood resources.
- Family crisis counseling that affords "emergency" professional help to a youngster and his or her family for a temporary period.
- Proctor programs where youths live with a proctor in the proctor's home until it can be demonstrated to authorities that the young person is making constructive use of his time and learning to cope with those problems that led to involvement with the juvenile-justice system.
- Service-oriented programs for youngsters who don't require constant supervision and could benefit from counseling, employment training, and other programs.

The Los Angeles Daily Journal

Monday, March 30, 1987

Teen's Jail Death Helps Change Law on Holding Juveniles

McClatchy News Service

WILLOWS — Fifteen-year-old Kathy Robbins' offense against society was running away from home. She paid for it with her life in a Glenn County jail cell.

She may be the last youngster to die under such circumstances, thanks to a new law that followed her death.

A policeman took Robbins into custody as a runaway one Saturday night in August 1984 as she and a girlfriend were walking in downtown Orland.

Robbins was taken in handcuffs to the 54-year-old county jail in Willows, where she was placed alone in a cell. Like 14 other California counties, Glenn County had no separate detention facility for juveniles.

Four days after she was picked up, Robbins was slated for a detention hearing in uvenile court. But the proceeding was postponed.

Later that day, back in the isolation of her ell, Robbins twisted a sheet around her neck nd hanged herself from the guardrail of a op bunk bed.

Her family filed a multimillion dollar civil-ights lawsuit against Glenn County and its fficials for their alleged "reckless and de-berate disregard of the rights and safety of athy Robbins."

Glenn County officials recently settled the uit by paying the family $125,000 and its torneys almost $30,000 in fees.

"We did have some difficulties with the ase" if it had gone to trial, said Willows wyer Gary Krup, who represented Glenn County officials. "A 15-year-old dying in a il cell certainly has a sympathy factor be-re a jury," Krup said.

Chico lawyer J.D. Zink, who represented e family, said, "This particular situation as even more egregious" than most in-ances of jail suicides by youthful offenders.

mpact of Case Cited

Robbins was only one of six teen-agers who ve taken their lives in county jails and lice lockups in California since 1979, ac-rding to the California Youth Authority.

Robbins' suicide and the resulting lawsuit re an impetus to the passage of a state law that as of January 1987 forbids the detention of teen-agers in the same facilities with adult offenders.

The state Board of Corrections, in its 1986 report to the Legislature, described the Robbins lawsuit as one of the "major cases affecting the holding of juveniles in jails."

Adults and juveniles already were detained in separate cells or areas within a jail. But under the new law, the two groups cannot be held in the same building, said CYA Deputy Director Ronald Hayes. Only minors who have been remanded to adult courts and are legally considered adults now can be held in county jails, Hayes said.

Juveniles charged with a crime — but not runnaways — may be held for up to six hours in a lockup or temporary detention facility, pending investigation or transportation to a juvenile hall, he said.

The law granted a two-year delay in compliance for counties that do not have juvenile halls.

Glenn, Modoc, Lassen, Trinity, Colusa, Sierra, Alpine, Tuolomne, Calaveras, Mono, Inyo, San Benito, Amador, Plumas, and Mariposa counties do not have juvenile halls.

Most of those 15 counties still hold juveniles in jails with adult offenders, Hayes said. But that practice must end by July 1989, he said.

"They've got to come up with something to detain juveniles separate from adults," he said. "The law doesn't tell them what to do."

Those counties now are grappling with how to comply with the law. A state bond issue provided $20 million for the construction of juvenile halls. Some counties, like Modoc, are discussing construction of juvenile halls in their counties. Officials from Amador, Calaveras, and Tuolumne counties are exploring the possibility of building a jointly operated facility in San Andreas.

Some rural counties with juvenile halls are wrestling with the new prohibition on detention of minors for more than six hours in temporary lockups, such as at police stations and sheriff substations. In El Dorado County, sheriff's deputies or police may be hard-pressed to transport juveniles taken into custody in South Lake Tahoe to Placerville within six hours when weather shuts down Highway 50.

"That's something we are still in the process of addressing. There's no easy solution to this," said El Dorado Sheriff's Lt. Ernie Hillman.

Whatever the problems in implementing the new law, it is highly praised by those concerned with juvenile-justice issues. "It's now the best law in the United States, the most progressive law in the U.S. on this issue," said Mark Soler, director of the Youth Law Center in San Francisco.

The center's James Bell said that some of the youths who would commit suicide in jails also could take their own lives in juvenile facilities. But that risk is far reduced in juvenile facilities because such facilities have trained staff and programs for handling youthful offenders, he said.

Co-sponsered Legislation

The center and the National Council on Crime and Delinquency co-sponsored the separate-detention legislation. The center also provided lawyers to assist the attorney hired by Kathy Robbins' family in their suit.

Soler said the center joined the lawsuit "to show how pervasive and dangerous this situation was." In 1982, the last year for which complete figures are available, some "100,000 children were held in jails and police stations in the state for some period of time," he said.

The vast majority of those juveniles were jailed for less than a day, pending transfer to regular juvenile facilities.

Soler acknowledged that many youthful offenders are accused of serious crimes. "I don't favor letting them go," he said. "A kid charged with murder — I don't want him on the street terrorizing my family or anyone else's. It's just a question of where to put him."

Governor's Council on Juvenile Justice

Mission Statement

The Governor's Council on Juvenile Justice (the Council) was established by Executive Order on June 20, 1984, to advise the Governor, The Governor's Office of Criminal Justice Services (GOCJS), and other state and community bodies on how to more effectively address the diverse and complicated issues related to juvenile justice and youth services.

The Council is committed to promoting the positive growth and development of Ohio youth by improving the quality of juvenile justice and youth services in Ohio.

The Council will work to enhance the quality and range of youth programs; improve coordination and planning of services for youth, families and their other support systems; to provide and promote public education on juvenile justice and youth service issues; address legislative issues; support the rights of youth to due process and effective treatment; and to actively participate at the state and national level on behalf of youth.

(Revised and approved by the GCJJ on March 7, 1985)

Goals of the Council

Revised 3/7/85

Goal I:

Advise the Governor and GOCJS on the needs and accomplishments of the juvenile justice system in Ohio and nationally.

Goal II:

To encourage the development and enhancement of programs in and alternatives to the juvenile justice system and to the institutionalization of dependent, neglected, abused, unruly, delinquent and other at-risk youth. (Revised 3/15/85 Education Work Group)

Goal III:

To improve planning, coordination and networking of services to youth in Ohio and to support policies and practices which promote continuity of care across systems and effective aftercare services.

Goal IV:

To increase community awareness of the juvenile justice system and services to youth and to educate the community and juvenile justice professionals about current youth service issues, policies, and programs, as well as innovative concepts and exemplary projects.

Goal V:

To impact state and national legislation related to juvenile justice policies and youth issues.

Goal VI:

To support policies and procedures that protect the due process rights of all youth in contact with the juvenile justice system and ensure that they receive fair and equitable dispositions which utilize the least restrictive alternative.

Goal VII:

To establish visibility and credibility as an advisory body at the state and national level.

Objectives of the Council

Objectives for Goal I:

A. To advise GOCJS on general program priorities for funds annually available to Ohio from the OJJDPA.

B. To maintain general oversight regarding the Comprehensive Plan and other issues consistent with the JJDPA through (1) an annual needs assessment (2) annual review of the Comprehensive Plan (3) approval of specific proposals and projects and (4) to accept and act on appeals as presented.

C. To review and comment on the official status and activities of the juvenile justice system.

Objectives for Goal II:

A. To support community based programs or services which advocate utilization of the home and family in the treatment of delinquent, unruly and other at risk youth.* (Revised 3/15/85 Education Work Group)

B. To encourage further development of programs for alternative education, youth employment, chemically dependent families, and other services for intervention and prevention*. (Revised 3/15/85 Education Work Group)

C. To encourage futher development of family crisis centers and of home-based family services*.

D. To encourage further development of programs targetted to minority youth and families*.

* These objectives will be met through allocation of funding, community education and positions taken on policy issues and pending or recommended legislation.

E. To achieve 100% compliancy with JJDPA mandates on removal of juveniles from adult jails and lock-ups by 1987. (JJDP Work Group 4/85)

F. To inform the community and the juvenile justice system about the Comprehensive Plan, including projects funded through the JJDP block grant and the results of the needs assessment. (JJDP Work Group 4/85)

G. To provide technical assistance to communities based on knowledge about existing programs, both those funded with JJDP money and exemplary projects from around the country. (JJDP Work Group 4/85)

Objectives for Goal III:

A. To require evidence of coordination between state and local programs through OJJDP project requirements and support more effective coordination between state and local programs through regional hearings and eduction efforts by the Council.

B. To identify and promote working models of local networking.

C. To advocate for adequate funding of identified service needs for youth and families through legislation and other funding resources through regional hearing etc. (Revised 3/15/85 Education Work Group)

D. To advocate for a strategic statewide juvenile justice plan through regional meetings and other organizational efforts.

Objectives for Goal IV:

A. To conduct regional hearings on juvenile justice and other youth and family service issues.

B. To promote the establishment of a more comprehensive information and data base regarding the current status of the juvenile justice system and facilitate dissemination of the information and act as a clearinghouse for the provision of training and technical assistance to service providers and interested community groups.

C. To educate youth and adults about the juvenile justice system through community education, outreach efforts, the development of law-related education programs through the use of appropriate materials and media resources.

D. Identify exemplary programs in Ohio based on established criteria and give a certificate of merit to those projects for outstanding accomplishment.

E. To educate the Council regarding the juvenile justice system in Ohio and suggest needed improvements in juvenile justice policies and programs through materials, public hearings.

F. To maintain full compliance, with diminimis exceptions, with the deinstitutionalization of status offenders. (JJDP Work Group 4/85)

[illegible] the least restrictive detention alternative [illegible]

Objectives for Goal V:

A. To review, comment and develop policy statements on proposed state and federal juvenile justice legislation.

B. To recommend needed state legislation.

C. To provide testimony or information to the legislature on juvenile justice and youth issues and needs.

D. To provide at least two or three information sessions to legislators on juvenile justice and youth issues and needs during the 116th General Assembly.

E. Review pending legislation and advise the Governor's Office through statements of Council position.

Objectives for Goal VI:

A. To examine statewide guidelines concerning the use of detention and make recommendations that would result in increased use of least restrictive alternatives.

B. To support development of policy guidelines that will ensure confidentiality of juvenile records while ensuring fiscal accountability and permitting the sharing of information essential for a more effective juvenile justice system. These guidelines will address confidentiality of juvenile records for treatment, program development, monitoring, assessment, and research.

C. To review, comment and support the development of policy guidelines and practices that ensure youth receive fair and equitable dispositions and due process protection.

Objectives for Goal VII:

A. To participate through attendance and other activities in th National Steering Committee on national juvenile justice issues through 1986.

B. To participate through attendance and other activities with the Midwest Coalition activities throuh 1986.

C. To establish and maintain ongoing relationships with major statewide juvenile justice organizations.

FEDERATION FOR COMMUNITY PLANNING
The Task Force on Juvenile Corrections:
Goals and Objectives for 1988

GOAL: Advocate for better services for youth committed to juvenile corrections in Ohio.

1. Make recommendations for adequate funding for juvenile corrections, including the ODYS Capital and Biennium budgets.

2. Support the development and adoption of minimum standards for juvenile corrections and aftercare that include:

   Standards that address: quality of life issues, such as health and safety; institutional and aftercare programming to meet the education, mental health, substance use and other needs of the committed youth; and offense specific treatment to provide concentrated treatment to correct violent and other serious juvenile offenders.

   A process for monitoring compliance with standards.

GOAL: Support community-based alternatives to juvenile correctional institutions when protection of society is not an issue.

1. Draft and support legislation to:

   Provide incentives to enhance local communities to develop programs within the community for youth, who would otherwise be committed to juvenile correctional facilities.

   Eliminate misdemeanors as commitable offenses.

   Eliminate escapes from placement as commitable offenses.

   Eliminate consecutive sentences for two or more felony adjudications for offenses that are adjudicated at the same time.

   Provide community based dispositions for felony 4 larceny/theft offenses when there are no extenuating circumstances.

2. Review and recommend residential and non-residential services that could be used as alternatives to juvenile correctional placement.

   This will include a review of the type and number of available community-based residential slots in Cuyahoga County and non-residential programs that are available or could be used if available in place of commitment to ODYS.

Three work groups were suggested:

Standards
Legislation
Residential and Non-Residential Community-Based Services.

DH4/E/av

Governor's Council on Juvenile Justice

Executive Summary

FIRST ANNUAL
REPORT TO THE GOVERNOR
1985-86

Executive Summary

The Governor's Council on Juvenile Justice (Council) was established in 1984 to advise the Governor and provide leadership in the improvement of the juvenile justice system in Ohio. Since that time, the Council has worked on the development of programs and initiatives to make lasting changes in that system.

During the first year, the Council developed a mission statement, goals, and objectives to establish a framework for its activities. The Council selected seven major areas of emphasis:

1. advising the Governor and Governor's Office of Criminal Justice Services (Ohio's Juvenile Justice and Delinquency Prevention administrative body) on status and needs of the juvenile justice system;
2. developing programs that improve the system as well as serve youth and their families;
3. improving the planning, coordination, and networking of services to youth;
4. developing programs and educational efforts that promote community awareness of the needs of youth;
5. impacting state and national juvenile justice legislation;
6. developing projects and initiatives for the removal of juveniles from adult jails and for other special emphasis programs;
7. Ensuring the due process rights of juveniles.

The Council has undertaken various activities to achieve these goals. This report summarizies the needs of the juvenile justice system as perceived by the Council and the accomplishments of the Governor's Council on Juvenile Justice as well as to provide a vision for future direction.

System Needs

During the past two years the Council has examined various aspects of the juvenile justice system to determine the needs of the system. As a result, it has become apparent that there is a wide range of services available to youth. However, the service agencies are operating independently to treat youth. The system has a fragmented approach to the treatment of youth "in trouble". Therefore, the Council feels very strongly that the State of Ohio needs to develop a comprehensive youth policy for youth who are in contact with the juvenile justice system.

Programs that Improve the System

The Juvenile Justice and Delinquency Prevention Act (JJDPA) has provided Ohio with over $5.5 million during the past three years (1984 - 1987) for development of programs. The Council has actively worked to distribute these funds to programs that will provide effective services to youth and improve the state's juvenile justice system.

The first major special emphasis program was the removal of juveniles from adult jails. In operation for two years, the project has been very successful at a cost of only $172,000 per year. In 1981, there were 33 adult jails holding 3,527 juveniles. During 1987, there will only be three jails regularly holding juveniles for a total of 100 youth. This is a major accomplishment. Ohio will be one of the few states nationally to achieve this goal through policy and practice rather than legislation.

Since the first special emphasis program was so successful, the Council will embark on three new initiatives during the 1987-88 funding cycle: 1) a sexual offender and/or repeat violent offender program; 2) a program to reduce violations of both the 24 hour and five-day rule for detention of unruly children; 3) community based projects to reduce commitments to the Ohio Department of Youth Services.

Planning and Coordination

With special emphasis on minority populations in the state, the Council has actively worked to improve networking among service providers, families and children. These concerns have led to establishing networking as a requirement for Juvenile Justice and Delinquency Prevention proposals. The Council has provided forums for juvenile judges, court staff, and for service delivery personnel to better plan for and increase the number of alternatives available for the treatment of youth.

Community Awareness

The Council has identified a need to educate the community about the juvenile justice system and to dispel many rampant myths. In October 1985, Council conducted a successful training program on the jail removal issue and provided technical assistance to participating counties. It resulted in the development of nine projects to remove juvenile from adult jails. Currently, a statewide clearinghouse is being developed to centralize juvenile justice and youth issues resources for practitioners. The Council is also examining the establishment of a statewide law-related education program for juvenile institutions and schools. A Facts/Myths brochure and the development of a statewide youth policy have been identified as useful tools for future community education.

Legislation

The state legislature has become increasingly more active, during the past two years in juvenile justice related with legislation. As a result, the Council has worked actively to promote adequate resources in the state budget for agencies that serve youth and has opposed enhancement legislation that would aggravate the Department of Youth Services overcrowding crisis. The Council has opposed the model national juvenile code developed in 1986, because of the long range negative impact it would have on Ohio's juvenile justice system.

Due Process

To ensure the due process rights of youth in the juvenile justice system, the Council will be looking closely at the use of detention in Ohio. Because of the large number of juveniles held in detention, the Council will attempt to identify patterns of detention and recommend changes. During its tenure, many programs have been funded by the Council to provide alternatives to detention through special directions developed for Juvenile Justice and D6linquency Prevention funded applications. Fourteen projects were funded in the category of alternatives to institutionalization in 1986.

Policy Development

The Council has become a viable group to impact juvenile justice policy and procedure issues at both state and federal levels. Through strategic use of JJDPA funds, the Council has supported an improved quality of justice for juveniles in Ohio. In addition, the National Coalition of State Advisory Groups recognizes Ohio as a leader in the jail removal area. Current work plans for the Council include the development of a youth policy for the state.

Revised 6/87

Richard F. Celeste
Governor

The Governor's
Council on
Juvenile Justice

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Director

10 March 1988

Good morning, Senator Metzenbaum and members of the Senate Judiciary Committee. My name is Kay Vine. This morning I am testifying as Chairperson of both the Governor's Council on Juvenile Justice and the Cuyahoga County Task Force on Juvenile Corrections.

On behalf of both these bodies, I want to express our appreciation for having the opportunity to address you regarding juvenile justice and federal funding.

I will address the following briefly:

Role of the Governor's Council on Juvenile Justice which was established in 1984. (Mission and Goals statements attached.)

Work of the Council. The 1986 Report to the Governor and some copies of the Executive Summary are provided for you.

Work of the Council in setting forth direction in Ohio regarding juvenile justice issues. At its most recent meeting in February, 1988, the Council approved "Ohio's Directives on Juvenile Justice Delinquency Prevention Project Development." This material is sent to planning bodies and agencies throughout the state for application for JJDP funds. The Council approved the following funding categories:

Planning and Management
Pre-Ajudication Diversion
Jail Removal
Alternatives to Institutionalization
Adolescent Sex Offenders and Repeat Violent Offenders
Deinstitutionalization of Unrulies (Status Offenders)
Alternatives to Department of Youth Services (State)
  Commitments

Significant Initiatives. Through a decision by the Council in 1985, some money was set aside from the Ohio JJDP allocation to support removal of children/youth from adult jails for those communities which were not in compliance with the JJDP Act. In 1981 over 3,500 minors were inappropriately detained in adult jails (33 of them in the state); in 1987, 7 jails held 238 minors. Currently, a committee comprised of representatives from the Governor's Council on Juvenile Justice, the Governor's Office of Criminal Justice Services, Ohio Juvenile Judges Association, the Ohio Legislature, and the State Sheriff's Association has worked to draft legislation which would mandate removal of all youth from adult jails. H.B. 792, sponsored by State Representatives Tom Roberts (Dayton) and Jane Campbell (Cleveland), was introduced on March 1, 1988.

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Outline cont.,

Community efforts. The Cuyahoga County Task Force on Juvenile Corrections is an example of a coalition of community leaders in juvenile justice working together to create a more effective system for working with juvenile offenders. (Objectives attached.)

There is much to be done in the areas of prevention, alternative programming, and aftercare of youth and their families subsequent to a youth's incarceration in a state or local facility.

Overview of Juvenile Justice in Ohio. Chapter IX of the accompanying publication, The State of Crime and Criminal Justice in Ohio, gives an excellant overview of the state's juvenile justice system and how it operates in the eighty-eight counties.

Finally, this morning, I am pleased to introduce to you a JJDP-funded program. "It's Your World," is a youth program of Merrick House, an inner-city neighborhood center. The staff and young people who utilize the program are here to share with you their concerns about elimination of JJDP funds as well as some insights into how such a community-based project has helped them.

None of these efforts-- statewide or local-- would be possible without the support of Federal dollars. We Commend you for your concern and would be pleased to offer further information at your request.

Senator **Metzenbaum**. Marita Kavalec, executive director of the Community Youth Mediation Project. We are happy to have you with us today.

STATEMENT OF MARITA KAVALEC, DIRECTOR, COMMUNITY YOUTH MEDIATION PROGRAM, CLEVELAND, OH

Ms. **Kavalec**. Thank you very much, Senator. Good morning to all of you.

Today I'm here to describe both an agency and, then specifically, a Juvenile Justice and Delinquency Prevention project that is a little bit different than I think what you have been hearing about thus far today.

Our premise, basically, is that in order to prevent juvenile delinquency and to promote juvenile justice, that early intervention, detection and prevention and diversion kind of programs are needed so that youth can be dealt with, their problems can be addressed before they become involved in things that are far more serious.

First of all, if I could just very briefly describe the Community Youth Mediation Program. It is a Near West Side community based, conflict resolution organization. Our particular purpose is to resolve youth-related conflicts, disputes and problems through the process of mediation, and to empower community residents to become involved in the resolution of these youth problems by training trained volunteers to act as the mediators for the program.

We were started in 1981 because, at that point, the Near West Side community had the highest rate of juvenile delinquency and unruly filings at Cuyahoga County Juvenile Court. And because Cuyahoga County is the largest county in the State, that can be translated to mean we had the highest rate of delinquency in the entire State.

Secondly, the community felt that there was really a need for them to have a vehicle to be able to address and be involved in the resolution of youth-related problems. And thirdly, there was a desire to offer some sort of alternative to traditional methods via the juvenile justice; specifically, juvenile court system.

Senator **Metzenbaum**. Give us some examples of the kinds of disputes that you would get into.

Ms. **Kavalec**. On a day-to-day basis, we handle problems such as truancy, gang-related problems, fights, harassment, petty theft and vandalism. We provide the services that are known as out-reach, mediation and service brokerage. The idea is, we pull together every significant player that is involved in any given dispute, have them identify the problems themselves, facilitate communication between them and, ultimately, to end up with a balanced, written agreement where everybody involved in the problem takes responsibility for handling the problem.

Senator **Metzenbaum**. How do you make your point, and how do you get to some of those who are the problem young people?

Ms. **Kavalec**. It's really been more simple than I could ever have possibly imagined. First of all, no doubt, people don't like to have live with misery that might be caused by the problems that they are involved with.

Secondly, especially youth, I think, are eager to have the opportunity to be able to take some responsibility, not only for what has happened, but what can happen, too, and make some changes. So many of us—youth, specifically, I think—are so used to being told what needs to be done to change anything, to have solutions or resolutions imposed or enforced upon them. This is a totally different sort of thing.

Our agency and our specific programs provide a vehicle for those who are involved to solve the problem themselves. We are merely the facilitators. Not only is that an essential element, but because participants are able to determine for themselves what they want to do to resolve the problem, there is a far more increased chance that any specific resolution will be maintained. When people give their word, they want to be able to live up to it. When they can decide what they want to do, they will follow through with it.

The interesting part of all of this is that it provides a non-adversarial sort of way for different people involved in an on-going relationship to resolve their problems. In a non-adversarial kind of resolution, it provides a win-win resolution. Everybody can end up feeling good about things. Instead of sometimes a win-lose sort of scenario where the solution itself may tend to increase the bad feelings, increase the problem, or maybe even escalate it into something far worse.

After 6 years of operation, then, our program has proven that disputes can be handled peacefully, that the resolution of conflicts prevents violence and crime, and it generates cooperation among and within diverse groups of people.

Our Juvenile Justice and Delinquency Prevention Project itself, which is entitled "Prepare, Attend and Mediate," is an effort for us to address one of what we see as the biggest issues facing Cleveland youth today, and that is the problem of truancy, dropouts, and related issues to those two problems.

To provide you with just a couple of brief statistics, there are 10,000 students absent daily from the Cleveland Public Schools. We have also a 50 percent dropout rate, which at this point——

Senator METZENBAUM. Ten thousand out of how many?

Ms. KAVALEC. Seventy-two thousand.

We have a 50 percent dropout rate; one out of every two students who begins school does not graduate.

Senator METZENBAUM. From kindergarten to twelfth grade?

Ms. KAVALEC. Yes.

Senator METZENBAUM. I thought I had heard a statistic the other day that a child entering school, that there is a probability that only one out of 12 will wind up graduating.

Ms. KAVALEC. One out of two, unfortunately; in the Cleveland Public School System, specifically.

Dropout students, truant students, tend to be alienated——

Senator METZENBAUM. How does that figure compare with other major cities in America?

Ms. KAVALEC. It is one of the worst in the Nation. It may be number one; I am really not sure at this point.

Truant and dropout students tend to be alienated and apolitically involved, and obviously have no opportunity for any kind of upward mobility. Truant and dropout students, though, not only pose problems for themselves, but for the community at large.

Judge Betty Willis Reuben of the Juvenile Court attempted to document the educational histories of those juveniles who were coming through her courtroom. She was able to assess that 80 percent of the students who did show up in her courtroom had never completed—I'm sorry—first began to show problems by truancy at a very early age.

A recent Plain Dealer article stated that 70 percent of adults incarcerated in Ohio prisons never completed high school. So, obviously, nonparticipation, nonattendance in school can very readily and very easily lead to far graver problems further down the road.

We attempted then to come up with some sort of creative solution to this massive truancy problem. The remedy for truancy has been elusive for juvenile justice providers, social service providers for a long time. We decided to try and match the whole technique and philosophy of mediation with what may be causing truancy, and to also do this with a population of students that had not yet developed these very bad patterns or habits, and to do early detection and intervention.

It appeared that the timeliness of an intervention would definitely have a far greater impact on the students if we could get to them early; perhaps they would not become——

Senator **Metzenbaum**. What is the main cause for truancy?

Ms. **Kavalec**. Well, in order to give it some manageable sort of thing, we have tried to identify three possibilities: that either there is some peer-related sort of issue going on; there is some school-related issue going on, for example, animosity between a given student and a given teacher; or, thirdly, there is some family-related sort of issue. There are probably 100,000 reasons for truancy, but we tried to put this in a framework so we could begin to address it.

We decided to put together a program then specifically targeted for sixth graders, because in the Cleveland Public School System, again, attendance rates begin to plummet when a student finishes the sixth grade. The attendance rates in elementary schools are far higher than those of intermediate and then, eventually, high schools.

We came up with a two-pronged strategy, basically, to attempt to get to a large group of students and then also to provide specific comprehensive services to a more targeted body of students.

The first pieces are known as our educational component. We viewed truancy as a negative reaction to some sort of conflict. So what we do is we provide conflict management, skill-building workshops to approximate 800 sixth grade students per year. The whole notion is to empower the students to have some other ways, some better ways of dealing with conflict and then, ultimately, truancy.

The second piece of the program is intensive out-reach mediation and service brokerage services for 50 students and families who are already exhibiting truancy behavior or who are likely to. They can be defined as at risk. For example, we have found that if older siblings truant, it is very, very likely that the younger students will begin to, as well.

The goal, then, with these 50 students and families is to identify the problems through the process of out-reach and to pull everybody together to resolve the problem in a mediation session so that a plan of action can be created to resolve the presenting problem.

The results of three years now of the implementation of the Prepare, Attend and Mediate Program, or more commonly known as PAM, is first of all, the workshops are so well received, there is a movement afoot right now to turn it into a curriculum for not only the Cleveland Public Schools, but every public school in the State of Ohio.

Secondly, many of the schools that are involved in these workshops have begun to adopt what is known as Conflict Management Programs, where students actually intervene in the conflicts of their peers; again, to prevent them from escalating and to empower students themselves to be involved in problem-resolution, and so it is not always in the hands of the adults.

Thirdly, 86 percent of the targeted students who receive the comprehensive services have made the successful transition to intermediate school. There is no doubt that these students would probably have become involved in the truancy, dropout, delinquency cycle.

This particular program is now a national model and, on the average, our cost if about $14 per participant to provide all these services. If the Juvenile Justice and Delinquency Prevention Act is not reauthorized, such programs as this will no longer exist. I think the bottom line is that some sort of investment in prevention saves innumerable, uncountable dollars further down the road, when delinquency and crime is a much graver problem.

Thank you very much.

Senator **Metzenbaum**. I appreciate your testimony. It is very, very interesting to me and provides sort of a hopeful note. Assuming we can keep you funded, I'm going to ask Dave Hoehnen at some point to just drop in on you unexpectedly to see how the program is working and see, really, what you are doing.

Ms. **Kavalec**. He would be most welcome.

Senator **Metzenbaum**. I want to thank the both of you for your testimony. I'm going to ask you to leave the table just so I can bring some of these young people up to the table.

Ms. Hokenstad, why don't you bring your young people up. There are some extra chairs, I think, in the back of the room, that they can all come up and sit with you.

First, Ms. Hokenstad.

STATEMENT OF A PANEL CONSISTING OF ALENE HOKENSTAD, YOUTH OUTREACH WORKER, MERRICK HOUSE, CLEVELAND, OH; LaVONNE DAVIS, OUTREACH WORKER, MERRICK HOUSE, CLEVELAND, OH; ROSE PENDELTON, LINDA HUGHES, ALEX FISCHER, DON TRAVYN STARKS, AND REBECCA MURRAY, YOUTH PARTICIPANTS IN MERRICK HOUSE, CLEVELAND, OH

Ms. **Hokenstad**. I am one of two staff who work for the It's Your World Program, which is funded by JJDP funds. I'm going to ask LaVonne Davis, the other youth worker, to explain a little bit about the program; I'm going to make a few comments, and then I'm going to let you listen to what the kids have to say.

They are very concerned about the possibility that the program may not exist in full force in the next few years.

Senator **Metzenbaum**. Okay. We have somewhat limited time, but let's see if we can do it.

[The following material was subsequently supplied for the record:]

MERRICK HOUSE
SETTLEMENT AND DAY NURSERY
1050 STARKWEATHER AVENUE
CLEVELAND, OHIO 44113

771-5077

IT'S YOUR WORLD

Merrick House is currently accepting referrals for a J.J.D.P. funded program entitled "It's Your World". Tremont youth ages 13-18 are invited to attend weekly group sessions dealing with contemporary teenaged issues i.e. drugs and alcohol abuse, sexuality, conflict resolution, and career options. Parents are encouraged to participate in workshops dealing with similar issues.

Both parents and teens sign individualized contacts indicating their goals for the 12 week session. Contracts are co-sign by project staff and evaluated by participants at the final meeting. School attendance and grade reports are monitored. Schools, courts, and other social service agencies are notified of staff's availability to youth in particular problem areas.

Youth graduated from the 12 week session become members of the Youth Advisory Board meets bi-weekly. Meeting agendas are designed to address the specific needs of board members.

Referrals can be made to Alene Hokenstad, Merrick House Group Worker, at 771-5077 or LaVonne Davis, Valley View Youth Worker, at 961-6393.

BEHAVIORAL CONTRACT

I, ________________________________, agree to do these things to make life better.

1) ______________________________
2) ______________________________
3) ______________________________

____
Your Signature

I would like ______________________ to do these things to help me achieve my goals.

1) ______________________________
2) ______________________________
3) ______________________________

____
Your Signature

Contract expires on ______________________

Parental Consent/Contract for "It's Your World"

Dear Parent or Guardian:

Your child ______________________ would like to enroll in a program called "It's Your World". In order to be accepted into the program he/she must have your consent and your committment to participate in the parent/guardian workshops which accompany the youth meetings. The "It's Your World Program" although funded by the Juvenile Justice Department, is not for youth who have been involved with the police. It is a 12 week series designed to educate teens on issues which surround them in everyday living.

The entire program is devoted to helping teens develop skills and a sense of responsibility toward the planning of their future. In addition to weekly meetings at the Merrick House/Valley View Community Center we will be encouraging school attendance and talking to teachers/principals about ways we can better assist young people. When appropriate we will be checking on class progress and making contacts with school counselors.

We ask that you do your best to help your child graduate from "It's Your World" by:

1. Encouraging regular attendance. A mandatory of 9 out of 12 meetings is required for graduation.
2. Attending at least 4 parent evening workshops.
3. Attending a "Bridging the Gap" one day conference with your child. (Scholarship money is available)
4. Contacting Lavonne Davis and Alene Hokenstad with questions, ideas, and concerns about the "It's Your World Program'.

In signing this contract you are committing yourself to working with theproject staff in helping your child make his/her world a better place to live. You are also agreeing to follow the four guidelines listed above. We are not here to magically solve your child's problems. We are here to provide support and teach skills which will enable you and your child to make your world a better place to live.

Most Sincerely,

Mrs Lavonne Davis

Lavonne Davis
Valleyview Estates

Alene Hokenstad
Alene Hokenstad
Merrick House

STATEMENT OF LaVONNE DAVIS, OUTREACH WORKER, MERRICK HOUSE, CLEVELAND, OH

Mr. **Davis**. Good morning. My name is LaVonne Davis. The program at issue is a 12-week session that works with kids, age 13 to 18. The subjects that are included are conflict-resolution, drug and alcohol abuse, sexuality and careers. There are more than 35——

Senator **Metzenbaum**. There is a microphone on your left. Would you bring that closer to you, please.

Mr. **Davis**. To graduate from the 12-week session program, youth must do these things. They must attend nine out of the 12 weekly sessions that meet every Wednesday at 4:00 o'clock. Before the youth graduate, they have to have a behavior contract which is designed for what the youth want to do, which can include improvement with grades, attitudes at home, and relationships with the family.

Alene is going to talk more about the program and the Advisory Board after youth have graduated.

Ms. **Hokenstad**. We have worked with over 70 families; and when I say we have worked with them, we have worked with them intensively. We have gone into every single child's home. We know the names of all the members of the families. We know the parents; we know the issues, and we know the kids. That's not to say that we haven't worked with other kids; we just have worked with 70 intensively.

Senator **Metzenbaum**. Who started your program?

Ms. **Hokenstad**. The program was started by two other staff people who have since left. LaVonne and I have been with the program—almost from the beginning.

Senator **Metzenbaum**. They just started it on their own?

Ms. **Hokenstad**. They were funded through JJDP funds to begin the program.

Senator **Metzenbaum**. I see.

Ms. **Hokenstad**. It is a cooperative effort between CMHA, the Valley View Estates and the Merrick House.

The children—I'm sorry, you're not children any more—the youth who have graduated from the program have come today to tell you their concerns about the future.

I would just like to say that I'm very proud of these kids. They have shown a lot of progress. They represent children or youth who have been referred from Juvenile Court for initial conflicts. They represent kids who have been truant from school. They do a really good job representing their program.

They sponsored a haunted house for 75 kids in the community this year.

Senator **Metzenbaum**. What kind of house?

Ms. **Hokenstad**. A haunted house. They haunted the Merrick House. It was an extremely popular event. I suspect, if we are still in operation next year, that we will see that again. They have sold candy to raise money to take trips and do more educational types of activities. They have tutored younger children, and are starting, phasing in a counseling program so that they can learn peer counseling and do that. Those are our hopes for the future, to continue that.

I am going to start with Rose.

Senator METZENBAUM. I want you to understand, each of the young people that testify, I may ask you some questions that may be a little bit embarrassing, so no holds barred. I just want to know what your problems were and how you got to where you are.

Go ahead, Rose.

STATEMENT OF ROSE PENDELTON, YOUTH PARTICIPANT IN MERRICK HOUSE, CLEVELAND, OH

Ms. PENDELTON. I think the It's Your World Program is important because if you take it away, kids won't have nothing to do. It helps them improve on things they need to know about, like drugs and alcohol, having something that kids can attend to, keeping them off the street.

I attend school to learn more about what is going on out there in the street. I have one more year to finish high school. I want to attend Cleveland State University or another College so I can become a better basketball player and learn more about getting a job.

You shouldn't take away It's Your World Program from kids because they won't know about what is going on out there in the streets.

Here are some of the things we learned in the It's Your World Program. One, a marijuana joint does more physical damage to lungs than 16 cigarettes.

Senator METZENBAUM. Say that again.

Ms. PENDELTON. One marijuana joint does much more physical damage to the lungs than 16 cigarettes. Marijuana is composed of over 400 chemicals, but when smoking it, it produces more than 2,000 separate chemicals. We learned why people use drugs, to be cool, to rid of pain, to hurt themselves, to hurt someone else, to commit suicide.

We also learn about these words: acknowledge. When you acknowledge as a listener, you tell the person who is speaking that you are getting the message. Reflecting. Reflecting helps the speakers identify feelings. Paraphrasing. Paraphrasing means putting into your own words what you think the speaker said. Question. Good listeners use two types of questions, open-ended and close-ended. Open-ended questions begin with these words: what, when, where, why and how. Close-ended questions begin with these words: do, did, have, will, shall. Credit. Credit is a phrase, someone saying, "Thank you."

Senator METZENBAUM. Rose, did you write that all yourself?

Ms. PENDELTON. Uh huh.

Senator METZENBAUM. Nobody helped you?

Ms. PENDELTON. No.

Senator METZENBAUM. How old are you?

Ms. PENDELTON. Eighteen.

Senator METZENBAUM. What kind of problem did you get into that you felt this program has helped you get out of?

Ms. PENDELTON. Like what?

Senator METZENBAUM. Well, you sound like a very nice young lady. You write very well; you speak very well. But the fact is that this program addresses itself to the fact that young people have gotten into problems, and the program has been able to bring them along to get out of the trouble.

Ms. **Hokenstad**. I think there is a misunderstanding. This program is a prevention program. We work with high-risk youth who live in the Tremont area. They are high risk because they live in a low income area, because they come from single families, because the teen pregnancy rate is so high, because so many of their peers drop out of school.

Rose is an excellent example of a young lady who has made it through, and we are really proud of her.

Senator **Metzenbaum**. Okay. I misunderstood. I thought it was a program that related to young people who had gotten into some problems, and that this was sort of a rehabilitation program.

Ms. **Hokenstad**. It's both.

Senator **Metzenbaum**. It's both. Rose didn't have any problem of a special nature?

Ms. **Pendelton**. No.

Senator **Metzenbaum**. Were you into marijuana before you got into the program?

Ms. **Pendelton**. No

Senator **Metzenbaum**. Thank you very much.

Next. What's your name?

STATEMENT OF LINDA HUGHES, PARTICIPANT IN MERRICK HOUSE, CLEVELAND, OH

Ms. **Hughes**. Hi. My name is Linda Hughes.

I'm here to discuss with you some of the conflicts I had at Aviation High School. I was harassed at Aviation High School. It took some time but I decided to get help, so I went to my school principal, but he never had time to talk with me. Then I went to my school counselor and I explained that I was having a hard time there. He listened but, still, nothing was done about it.

So I quit school. I had lost all trust for my teachers, my peers, even for myself. That's when I came to the Merrick House. It took me a while, but I opened up to Alene and LaVonne and they were able to help me deal with my problems. But much more important than that, I regained trust for people and trust for myself.

Senator **Metzenbaum**. What are you doing now?

Ms. **Hughes**. I'm so nervous. Right now I am in a GED program—I'm 17 years—and that enables me to get a GED diploma, and then I can go on to college from there.

Senator **Metzenbaum**. Why are you in a GED program instead of high school, high school itself?

Ms. **Hughes**. Well, that—okay. You see, when I quit school, I was in the tenth grade and when I reentered school, I was 17 years old. So they told me that I didn't get any credits for going to Aviation High School. They said that it was going to take me about 2 to 3 years. With the GED, it will only take me 6 months and then I can get a diploma and go to college.

You know, being in high school and being older than the others, I don't think I would fit in there. So this is the best way for me.

Senator **Metzenbaum**. Where do you want to go to college?

Ms. **Hughes**. I wanted to go to Case Western—I hope to. Cuyahoga Community College is nice, too.

Senator **Metzenbaum**. Have you graduated from the GED program?

Ms. **Hughes**. I'm about to. I'm doing excellent there. I'm about to take the test in maybe a month.

Senator **Metzenbaum**. I hope you make it.

Ms. **Hughes**. I know I will.

Senator **Metzenbaum**. What is your name, young man?

STATEMENT OF ALEX FISCHER, PARTICIPANT IN MERRICK HOUSE, CLEVELAND, OH

Mr. **Fischer**. My name is Alex Fischer, and I am on the Advisory Board of the It's Your World Program. The It's Your World group taught me and others about the basics of life; how to survive in the world—not only to survive, but to be on top.

I am an artist. When I first started my art, I saw other works which were way, way better than mine. Then It's Your World group came along. They taught me that what I do is good, and what other people think is not really important, and you can't really survive on what other people think.

LaVonne Davis is a very good worker and friend. He not only helps counsel and get people out of big problems; he also has a basketball camp for boys and girls.

I was really depressed one day and I was considering suicide, and LaVonne helped me out. He got me out of it, taught me that my life is important. I make lots of people happy. He told me to be cool.

The Merrick House will really never be the same without LaVonne and It's Your World Program. If you take that away, a lot of kids that rely on these things for recreation after school will wind up hitting the streets and causing trouble.

I am not only speaking for myself, but for dozens of other people who rely on your help. I was just asking you to please reconsider your proposition and keep funding the program because this is really helping people to stay in school and keeping their education high and teaching people other things that they really need to know.

Senator **Metzenbaum**. I don't need to reconsider—I'm on your side. I want it to be funded, but we're having a little problem with the Gipper. We will work on that a little bit.

That's very good. Thank you. How is your art work coming?

Mr. **Fischer**. I'm okay so far.

Senator **Metzenbaum**. What kind of work do you do, painting or sculpturing?

Mr. **Fischer**. I'm into mostly graffiti art, and I do lots of work for my school. I do posters for the scholarship in escrow program. I have done around 10 posters in my school, using different kinds of paints and everything. I had a job last year as a muralist, so I'm doing okay.

Senator **Metzenbaum**. That's great. That's great.

What's your name, sir?

STATEMENT OF DON TRAVYN STARKS, PARTICIPANT IN MERRICK HOUSE, CLEVELAND, OH

Mr. **Starks**. My name is Don Travyn Starks, and I am 14 years old. I attend East Technical High School, and I am in the ninth grade.

I would like to direct your attention to Neighborhood Youth Center——

Senator **Metzenbaum**. First, tell me, where is East Tech located?

Mr. **Starks**. East 55th.

Senator **Metzenbaum**. East 55th—on East 55th? Is that right?

Mr. **Starks**. Yes.

Senator **Metzenbaum**. I thought it moved. It's not the old East tech.

Mr. **Starks**. They rebuilt it in 1972. The one that I go to right now, they rebuilt it, modernized it in 1972.

Senator **Metzenbaum**. You know, I don't like you too much because when I was in high school and I used to run on a track team, the guys from East Tech, like Jesse Owens and Dave Albrit, just left me behind, so now I'm going to get even with those fellows. [Laughter.]

Excuse me for interrupting. You go ahead, young man. I don't mean to interrupt you.

Mr. **Starks**. I would like to direct your attention to the youth activities which could cease to exist. I have contacted Senator John Glenn about this issue. Now I would like you to hear about the things that you want cleaned up, but might be preventing Mr. Clean from doing.

I think that if you wish to have juvenile delinquency, teenage pregnancies and alcoholic and drug-dependent kids deleted from society, keeping cash flowing for youth clubs in Cleveland and many other Ohio cities is the best decision to make.

Ohio cities definitely need programs like It's Your World because It's Your World helps with the prevention of drug addiction. Having seen an addicted person high, I know you wouldn't want your child or grandchildren to look the way an addict does, because if you enter him or her in any contest, he wouldn't win first, second or third.

You know as well as I do that you would pay any amount of money to cure your son or daughter if he or she were involved with drugs or narcotics. But, unfortunately, the Tremont residents aren't financially equipped to pay that much money. That's why It's Your World—backing for It's Your World equals a good reputation.

Mr. **Hoehnen**. Thank you.

The Senator had to make an emergency phone call. He will be right back. Please continue.

STATEMENT OF REBECCA MURRAY, PARTICIPANT IN MERRICK HOUSE, CLEVELAND, OH

Ms. **Murray**. My name is Rebecca Murray.

I think that It's Your World Program should stay on because kids won't know what's going on around them. If they don't know what's going on, they won't know how they can form the world so it's perfect for them.

The program has helped me talk to my mom more about sex, alcohol and drugs. I like taking this program because it helps me to understand myself more and those around me. It has helped me with problems I couldn't help myself with alone, and has helped me to overcome my fears that my family couldn't help me with.

The Merrick House has offered programs to children of our community which has helped in keeping us off the streets and out of trouble, and involved with the improvement of our self-esteem and the betterment of our community. With the help of Alene and LaVonne as counselors, they have helped me realize the potential of education and leadership as an important part of the productive life.

I plead with you to keep the It's Your World Program so that other children will have the same opportunity that I have had and the experiences which, otherwise, I would never have encountered without their help and caring.

Mr. HOEHNEN. How old are you?

Ms. MURRAY. Thirteen.

Mr. HOEHNEN. Where do you go to school?

Ms. MURRAY. Central Intermediate School.

Mr. HOEHNEN. Could we have some more information about how you work with the families? We have the children here today; no parents, though.

Ms. HOKENSTAD. Working with the parents has been very challenging. We have restructured our program several times to try and encourage parents to participate in the evening workshops which we offered, dealing with subjects such as how to talk to your kids about their developing sexuality, what parents need to know about AIDS, what kinds of resources are out there for you in the community.

We have been very disappointed in the attendance by the parents. I could say quite a bit about why that is. A lot of times it's because there is no babysitter. The parents are tired, they work long days; they come home, they're afraid to leave their houses without somebody there because they're afraid they're going to be robbed, a variety of other reasons.

So what we have tried to do is LaVonne and I make it a point to go house visiting and to stop in and talk to the families, the ones who don't have telephones, or to make phone calls regularly to the families that do, to check on the progress, to see how things are going.

We get calls all the time from parents who have a specific need, and would like our opinion or just somebody to talk to about it. It's much more informal.

Mr. HOEHNEN. What's your relationship with CMHA?

Ms. HOKENSTAD. CMHA, wrote the grant with Merrick House.

Mr. DAVIS. When I first started, my office was at Valley View Estates of CMHA. Then I transferred up to Merrick House. I work more up at the Merrick House than I do down in Valley View, but I still work with the same kids in the Tremont area.

Senator METZENBAUM. I think it's entirely appropriate that this panel be the last panel, because there is sort of a feeling of upbeat and that you're making some headway. I like your smiling faces, and it sounds like you're all going to make it, I hope. I think that's what we're concerned about, and that is how the young people and others are doing.

The toughest problem I have on this panel is distinguishing the leaders from the participants because you can't be too far away from the participants, age-wise. It's great that you're doing this, and I'm very proud of the successes you're having.

Part of your program is funded, but with Federal funds, as well; is that right?

Ms. **Hokenstad**. It is completely funded by Federal funds.

Senator **Metzenbaum**. Completely funded.

All right. We're going to put up the battle to see if we can keep these programs going. We think there are positive results. I feel reasonably certain that we will get the bill out of committee, and I think we will be able to move it on the floor of the United States Senate, as well.

I want to thank everybody who participated in the series today, for being so helpful. I think it supports—this kind of a field hearing supports a Senator in making a presentation to the committee and talking about the success and how a program of this kind can work so well.

That lady is on her feet, so I think she wants to be heard.

Please go ahead.

STATEMENT OF DORA LEE MARSHALL, PRESIDENT, SENIOR CITIZENS COALITION, CLEVELAND, OH

Ms. **Marshall**. Senator, my name is Dora Lee Marshall. I am the president of Senior Citizens Coalition.

I am here today on safety. I'm a little late, but my record is in.

I have something I want to say, and that is that I live at St. Andrews Towers on 55th and Superior. It's a beautiful building. It's clean and our management is very helpful. We also have security coming in and out all day, and we have security in the building all night. Some of our seniors' buildings are dirty. You don't want to go in them, much less to live in them.

I had six people come down here this morning. There's a lot of things going on. They're changing locks—and right now, there's been broken locks for I don't know how long. Now, they're changing locks and a lot of people were locked out yesterday. The office just changed locks and the people that didn't get back there by 4:00 o'clock, they were out last night until all kinds of hours before they could get into their building.

Senator **Metzenbaum**. Who changed the locks?

Ms. **Marshall**. The authorities, I guess, in the building changed the locks, because people have got keys. I don't know why they get keys to the locks, and a lot of locks have been broken, so they are changing locks on the doors.

The people were supposed to come down here. We had them all lined up to come down here today, and somebody threatened them, that if they come down here, they would all be put out. So there's nobody here by the Senior Citizens Coalition. We're here—senior citizens right here. All of us are here today to plead for this building and for more safety for seniors. The seniors are afraid to come out of their buildings after dark, out of their rooms—they're even afraid in the halls.

We have the safety—I don't understand why some buildings have so much and some have none. There's something wrong with the system. The system needs to be cleaned up. We are here today, asking to do something about these buildings and the seniors so that they can live their lives out.

We have worked all our lives, and we have done and tried and got these things where they ought to be. These are supposed to be our golden years; instead, they are our scared years. We're scared to walk the streets. We're scared to come out of the buildings.

But me, I am proud to say I can come out of my building any time I want to and come out of my house and walk around in my building, and exercise when I want to. But there's a lot of people in Cleveland who can't do that. They cannot come out of their buildings after a certain hour, and they're afraid to come out even in the daytime because there's always somebody walking the halls, or somebody doing something, or somebody in there that they don't know.

We are asking you all to investigate these buildings and put the security—this building I'm talking about don't have no security at all. There's somebody that goes in and out every once in a while.

Senator METZENBAUM. You've got to be a little more specific. We're willing to investigate. You said to me that the building you live in at 55th and Superior has good security.

Ms. MARSHALL. Yes, sir.

Senator METZENBAUM. Now, which building doesn't have good security, where did they change the locks, and who told somebody that they couldn't come down to testify?

Ms. MARSHALL. Well, Wade High Rise is one.

Senator METZENBAUM. Wade High Rise.

Ms. MARSHALL. Yes, sir. Wade High Rise; that they had better not come down or else they would be put out; and also, they changed locks.

Senator METZENBAUM. Who told them that? Wait. Don't go so fast; just be slow. Who told them at Wade High Rise——

Ms. MARSHALL. That's what they told us. They didn't tell us who told them, but they were told that.

Senator METZENBAUM. Well, I can't very well investigate somebody——

Ms. MARSHALL. But I know the management changed the locks.

Senator METZENBAUM. At Wade High Rise?

Ms. MARSHALL. That's right. They are changing locks, and a lot of people was out.

This is our Chairman——

Senator METZENBAUM. I'm going to have to conclude the hearing shortly, but I don't want to deny——

Ms. MARSHALL. I understand. This is Mary. She is the chairman of the safety committee. I will let her finish telling you.

Senator METZENBAUM. What is your name, Mary?

STATEMENT OF MARY KING-EL, SAFETY COORDINATOR, SENIOR CITIZENS COALITION, CLEVELAND, OH

Ms. KING-EL. My name is Mary King-El, and I'm the staff person for Senior Citizens Coalition, the safety coordinator.

The building that Mrs. Marshall is talking about is 9500 Wade Park. They are having a lot of problems there. It's a senior high-rise building. But at this particular time, they're having a lot of drug problems in the building. The seniors are afraid to come out of their apartments. They are afraid to go on the elevators. Residents have been robbed in the elevators. The manager of the building was attacked and robbed on her way into the building; her arms were broken.

These types of crimes have been taking place, and it's on-going for quite some time now. We are concerned about the seniors there in the building because they don't seem to be getting any relief.

Senator METZENBAUM. Tell me your name, please.

Ms. KING-EL. Mary King-El. Capital K-I-N-G.

Senator METZENBAUM. Wait a minute. Mary King.

Ms. KING-EL. Mary King-El. Capital E-L.

Senator METZENBAUM. That's your last name, El?

Ms. KING-EL. Capital K-I-N-G, hyphen, capital E-L.

Senator METZENBAUM. Oh, okay. Can you give me your phone number where one of my staffers can reach you?

Ms. KING-EL. Our office number is 694-3915.

Senator METZENBAUM. Okay. I will have somebody from my staff call you, and see if we can't run down the problem and see if we can't be helpful to you.

Ms. KING-EL. We appreciate that, Senator. Thank you very much.

Senator METZENBAUM. Senior citizens have always known that I have been ready to pitch in and help, and I won't let you down again, Ms. King-El.

This hearing is adjourned. Thank you all for being here and participating. Your involvement means a lot to me. Thank you very much.

[Whereupon, the committee adjourned, subject to the call of the chair.]

THE CRIMINAL AND JUVENILE JUSTICE PARTNERSHIP ACT OF 1987

MONDAY, APRIL 25, 1988

U.S. Senate,
Committee on the Judiciary,
Tucson, AZ.

The committee met, pursuant to notice, in Pimo County Board of Supervisors Hearing Room, Hon. Dennis DeConcini (acting chairman) presiding.

OPENING STATEMENT OF SENATOR DeCONCINI

Senator DeConcini. It gives me great pleasure to welcome to today's hearing a group of dedicated individuals from law enforcement and victim-assistance organizations around Arizona.

In this room we have brought together representatives from State and local agencies in order to develop these entities and, of course, the Federal Government.

I want to thank each of you for taking the time to prepare your statement and to be with us at this important hearing today.

I would also like to give special thanks to the chairman of the Senate Judiciary Committee, Senator Joe Biden, for authorizing this hearing. Senator Biden has been a strong advocate in the Senate for a close partnership between the Federal Government and State and locals as demonstrated last year with his introduction of Senate Bill 1250. This legislation reauthorizes funding approximately $500 million in fiscal year 1989 for State and local law enforcement and juvenile justice programs.

A recent report submitted by the Bureau of Justice Assistance on drug control concluded that many jurisdictions throughout the country, especially in rural areas, are not actively enforcing drug laws because of a lack of resources. The study also reports that most rural law enforcement agencies cannot conduct even basic drug investigations because they do not have the personnel, surveillance equipment or "buy money" to do undercover work.

In Arizona the statistics are even more discouraging. Arizona has become the largest single point of entry for South American cocaine trafficking transshipped through Mexico. Reports from the DEA estimate that about one-third of the total amount of cocaine shipped into the U.S. comes through Arizona. This, in turn, has led to a State crime rate that is 37 percent higher than the national average, and a crime rate that is second only to Florida.

In response to this trend of declining potency in the fight against narcotics, Assistant Attorney General Bradford Reynolds recently circulated a memo throughout the Justice Department urging top officials there to press for increased spending on the State and local level. The memo states that we should focus on the need for localities to spend more on drug enforcement and also to prosecute drug users.

What is unfortunate about this call for increased spending is that is comes during a period in which President Reagan, in his fiscal year 1989 budget, has totally eliminated all Federal funding to State and local law enforcement agencies. The President also requested the elimination of all juvenile justice programs. This leaves me wondering how, on the one hand, the Reagan administration expects state and locals to step up their efforts against illegal narcotics, while on the other hand they plan to eliminate the financial resources these agencies heavily rely on. There are problems here that have to be addressed both locally and on the Federal level.

Some very important programs that are proven successful in the battle against illegal drugs would be severely hampered by cuts in State and local funding. For example, the D.A.R.E. program for drug abuser assistance education, has been established in hundreds of communities across the U.S. with outstanding results being reported. This year in Arizona alone 19,000 students in 120 schools could be exposed to this program. But if President Reagan zeros out State and local funding, thousands of American students will miss out on the opportunity to learn the truth about the disastrous effects of drug abuse.

Pima County has received an important grant that establishes the pilot program for drug treatment and rehabilitation in its jail; but if the funding is cut, vital programs such as these, which help keep individuals from returning to our jails and prisons, could also be lost.

Programs for an organized crime/narcotics task force have been established in the U.S., two of which are being funded in Arizona. Once again, if the budgets are cut, so are the task forces.

On March 23rd, Senator Alfonse D'Amato and I introduced the Omnibus Anti-Drug Abuse Act of 1988. This bill authorizes $1.5 billion over the next 3 years for drug enforcement, treatment and prevention efforts at the State and local level. We understand that the financial burden of drug enforcement must be shared by the Federal Government and we are working hard to counteract President Reagan's abandonment of the many localities that are in urgent need of resources. If Federal assistance is not continually provided, and if the power of local jurisdictions to fight illicit narcotics continues to decline, then anarchy could ensue on the streets of America.

Recently in our Nation's capital, for example, a group of Black Muslims, at the request of their community, patrolled their neighborhood in search of drug pushers. The end result was the beating of a man who they had suspected as dealing cocaine in the streets of northeast Washington. A television newsman was also badly beaten in the incident.

When the American people are feeling they need to take the law into their own hands, what does it say about our government's commitment to keeping its citizens safe? The fact that our local law enforcement agencies are being overwhelmed by an increasingly well-equipped and cunning class of criminals is obvious. What we must do now is observe the facts, pinpoint the heart of our weakness and act to make sure that the necessary resources are channeled to those areas where we are most vulnerable.

We're going to hear from several panels today and I would ask that the following panel members please come up: Tom Collins, Maricopa County Attorney, chairman of the Arizona Criminal Justic Commission, outstanding prosecutor; Clarence Dupnik, Pima County Sheriff; Reg T. Morrision, Pima County Board of Supervisors; David Ellsworth, Yuma County Attorney, an outstanding person and prosecution attorney; Gary Latham, Police Chief, city of Flagstaff; and Jan Lindsey, CASA, court-appointed special advocate.

I do want the record to show my thanks and appreciation to the Board of Supervisors for Pima County for providing these facilities for us today.

Gentlemen and ladies, it's very, very helpful to us in our discussions to make a record to help us provide the necessary representation and resources and we would ask that your full statements be supplied for the record. Because of time we would ask that you please summarize for us your statements.

We'll start with County Attorney Tom Collins.

STATEMENT OF TOM COLLINS, MARICOPA COUNTY ATTORNEY, CHAIRMAN, ARIZONA CRIMINAL JUSTICE COMMISSION

Mr. COLLINS. Mr. Chairman and members of the committee, my name is Tom Collins. I am the Maricopa County Attorney. In that position I head the State's largest front-line prosecutor's office. I am also the chairman of the Arizona Criminal Justice Commission, which is responsible for coordination of criminal justice programs in the State of Arizona and is directly responsible for distribution within Arizona of the Federal antidrug money and matching State antidrug funds.

We believe that Arizona is on the threshold of implementation of a model plan of coordinated law enforcement efforts against drugs. Personally, I have consistently espoused the military maxim, "Amateurs talk tactics; professionals talk logistics." If there are only penalties on the books and not police and prosecutors to implement them, then we're only fooling the public that there is a real war on drugs.

There are two points that I would focus on when urging continuation of maximum funding under the Senate Bill 1250. First, the $5 million in Federal funds to Arizona law enforcement provided a catalyst that brought everyone involved in the enforcement effort together to construct a coordinated plan and it was the impetus for the Arizona Legislature to provide the additional $7.5 million in state funding.

Secondly, because we in Arizona have been committed to making the drug-law violators pay not only through criminal penalties but through forfeiture of their assets and fines, we designed an antidrug enforcement program in Arizona wherein fine revenues are to be used for continued long-range funding of the enforcement effort. This feature is not only to deter drug offenders but to shift the burden from the taxpayers to the drug offender.

However, this also requires some significant start-up time to build the fine fund. Therefore, the support of the Federal funding is especially critical through the start-up years of our program.

I would like to conclude by thanking Senator DeConcini for his long-time support of law enforcement. I've been a board member and vice president of the National District Attorneys Association, and Senator DeConcini, as a former prosecutor himself, has a national reputation with prosecutors for his efforts on behalf of prosecutors and criminal justice. Thank you very much.

Senator DECONCINI. Thank you.

Sheriff Dupnik?

STATEMENT OF CLARENCE DUPNIK, PIMA COUNTY SHERIFF

Mr. DUPNIK. Thank you, Senator DeConcini.

I'll try to keep my remarks brief, as brief as a politician can, and not read the 10-page document that we've already submitted.

First I'd like to say that I think you did an excellent job in summarizing the drug problem, not only nationally but certainly as it exists here on the border today in Arizona. I think that, unfortunately, narcotics has become national law enforcement's most serious problem. It's a problem that those of us who live with it daily, from an enforcement perspective, are literally overwhelmed by it. And I think that, by and large, that's a feeling that exists in society to some extent. I think people—the problem is so large they've just become overwhelmed by it and have resigned themselves to the fact that there's not much that they can do about it from an individual perspective, and retreat into their homes and put bars on windows and locks on doors and purchase guard dogs and so forth, and they try to pretend that the problem doesn't exist.

A lot of people say that that's apathy. I don't think that's apathy at all. By and large, people are angry and I think they're fed up with the amount of crime and sex violence and narcotics in our society. I think that the basic problem is one of tolerance; tolerance because of the feeling of being overwhelmed by the problem.

But I see some of that starting to turn around and I think that the leadership that you and the Senate have demonstrated, coupled with the desire that exists within the Senate and local people and Federal people to do something about the problem, is going to have some impact. I think the day is around the corner when people are going to stand up and say that we're going to eliminate this problem from our homes, our schools. We're going to eliminate it from our work place and we're going to eliminate if from our society. And I'm willing to make whatever sacrifice is needed to do that.

In line with that, from an enforcement perspective, I'd like to talk briefly about two of the problems that we have. As a result of your efforts up in the Senate, Senator, I'd like to say on behalf of all law enforcement that we certainly appreciate the leadership that you've demonstrated with reference to this program.

The one grant that we have from the Department of Justice has kind of reinvented the wheel, the wheel that you invented about 15 years ago when you were the county attorney here in Pima County. We have a $250,000 Department of Justice grant which we received last year for basically trying to shore up the nonexistent and meager resources that exist among, especially, the smaller agencies in the four border counties, Yuma County, Cochise, Pima and Santa Cruz. That grant basically provides equipment that we couldn't provide without it. It provides some resources in the way of overtime; it provides money for investigative expenses that, similarly, local jurisdictions, cites, towns and counties simply don't have the financial resources to do that.

So it's extremely important to us and I think that it's going to be demonstrated in a short period of time that it's going to be a very productive grant.

The second grant that we have is the $300,000 bond. We are one of two county jails across the country that were selected to provide treatment programs for prisoners in jail prior to their getting out. And I think that if we're going to be successful in this fight we have to put additional resources in the area of treatment, prevention and education. I think that if we shore up the ingredients that have been missing in our overall formula, I think that we're going to see some fruits of that soon.

So I'd like to say, as I already have, that we're grateful for what you've done, and I also would like to caution that if we lose that funding we're in dire straits. Thank you.

Senator DeConcini. Thank you very much.

[Prepared statement follows:]

PIMA COUNTY SHERIFF'S DEPARTMENT
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CLARENCE W. DUPNIK, SHERIFF, STANLEY L. CHESKE, CHIEF DEPUTY

April 22, 1988

United States Senate
Committee on the Judiciary
Wahington, D.C. 20510-6275

The following is testimony of Clarence W. Dupnik, Sheriff of Pima County, delivered to the Senate Judiciary Committee hearing on senate bill S.1250 on April 25, 1988.

Members of the Senate Judiciary Committee:

We are in the midst of one of the most difficult struggles in the history of this nation. It is a struggle that impacts all of us and leaves the society riddled with victims. Victims of the crimes committed by those under the influence of drugs or by the need to support a drug habit, victims who interfered with or dabbled in the business of narcotics trafficking, the friends, family, employers, subordinates and associates of the drug user, the children who deserve to grow up in a world free of the corruption of the mind and body caused by drugs, and the taxpayers who are forced to finance a staggering cost of drugs through taxes, insurance rates and loss of property. We are all victims. Consequently we must all take responsibility for the solutions.

In Arizona we have a particular problem. We are the "Cocaine Corridor" between Central and South America, through Mexico, into the United States. When the sun goes down, the desert along the border comes alive with people on foot, on horseback or with mules. By motorcycle, cars, trucks, airplanes and any other conceivable means, all transporting marijuana and cocaine from Mexico throughout the United States.

We the citizens of Pima County, of Arizona and of the United States', we the Governments at a local, State and Federal level must all take responsibility for attacking this problem. It is our problem, and only through a very concentrated coordinated and comprehensive effort, can we expect to have any lasting impact on the problem of drugs in our society.

We realize that without significant efforts to reduce the demand for drugs, any efforts aimed at attacking the supply will be effort in vain. Consequently we have targeted our resources in a comprehensive overall approach that includes interdiction, enforcement, education, prevention and treatment.

We have concentrated our law enforcement efforts through participation with DEA, the customs air interdiction unit and the Metropolitan area Narcotics Enforcement Unit. We are expanding the local narcotics task force to target street level users and street level buyers and to include virtually all local law enforcement agencies as well as DEA. In response to the demands of the community, we must concentrate our financial resource on attacking those who are selling drugs to our children in and around our schools and in our neighborhoods.

It is essential that we have the funding made available for organized crime narcotics enforcement through the Bureau of Justice Assistance so that we may target those at the trafficking and distribution level. The funding is utilized by the various narcotics task forces in the four border counties of Cochise, Santa Cruz, Pima and Yuma County. Those involved in illegal drug activities do not know city or county boundaries. The strength of our program is the coordination of effort between all the various enforcement agencies and task forces among the four counties and municipal law enforcement agencies, coupled with the funding essential to conduct proper investigations into these activities. Without this funding it would be impossible for the vast majority of the agencies to spend local government funds to pay informants, to utilize as a flash role or bywalk, to set up a purchase or to even rent the necessary undercover equipment and pay the overtime of the officers involved in the investigation.

We have targeted the education aspect through a strong community involvement in 'Tucsonans Say No to Drugs'. The citizens of Pima County realize that the problem is our problem and we all must take ownership in the solutions. The citizens have committed their time, their effort and their donations to ensure that everyone is aware of the scope, the magnitude and the impact of drugs in our society today.

We target prevention through our Drug Abuse Resistance Education program in the schools. We can change the attitudes of our youth, build their self esteem and prevent them from turning to drugs for a potential solution for their problems.

It is a fact of life that the vast majority of all persons incarcerated in our jails and prisons are substance abusers. Substance abuse in our society is recognized as one of the primary root causes of criminal behavior. For over two hundred years in our system of modern penology we have operated under the philosophy that if we put a criminal into a steel and concrete box to do penance for a period of years they will somehow contemplate their evil ways and magically decide to change their behavior. I believe our experience today proves that this philosophy has not worked. The United States has the distinction of having the highest incarceration rate of any country in the free world. Our prison and jail population has exploded in the past few years and along with it have come the staggering costs of incarceration. Californians now spend 1.3 billion dollars a year to finance their prison system. Twelve years ago the state of Arizona spent 16 million dollars. Today we spend almost a 1/4 of a billion dollars. Our inmate populations are increasing faster than we can build the beds. We must come to the realization that warehousing is not a solution and that we cannot build ourselves out of our crime problems. If we continue as we have in the past, this warehousing philosophy will eventually bankrupt society.

It is essential that we begin to treat the root cause of criminal behavior and concentrate on changing behavior rather than containing behavior. I realize, as well as many others, that there are a number of inmates within our jails and prisons who have not, nor will ever change their behavior regardless of the amount of time and effort society devotes to their treatment. For these individuals, warehousing is the appropriate response; however, there are many others in our jails and prisons who could change and many who want to change. Consequently treatment is an essential part of our overall approach to the drug problem in the United States today.

The drug treatment program that we have implemented in our facility is a unique approach to marrying the therapeutic community approach utilized very successfully in the private sector, with the direct supervision concept of inmate management within the county jail. Both the therapeutic community and direct supervision concentrate on holding people accountable for the actions, making them responsible for their behavior, eliminating denial of responsibility, and teaching the skills and attitudes necessary to live within society's boundaries of acceptable behavior. I believe the marriage between the professional community and the jail is one of the most exciting approaches to treatment of a problem in many years. It will be successful because we are committed, the community is committed and it is the right thing to do. The initial treatment in the jail coupled with follow up treatment in the private sector will return some people to society as productive citizens rather than foster the revolving door we have experienced for many years. Funding for this project exists for only eighteen months. It will be essential that sources of funding for continuation and expanding projects such as this are made available in the future.

The criminal justice system has a role in society today, to look towards new and innovative ways of solving our problems. We must evaluate existing programs, determine what works and what doesn't and move towards funding model programs in the future. If it hasn't worked up till now, let's try something else. If it doesn't work, abandon it and try a new idea. This is not a local problem. It is a problem which effects every level of our society, on a local, county, state and federal level. We must all take ownership in the solution.

Clarence W. Dupnik
Sheriff of Pima County

CWD:jle

Senator DeConcini. Jan Lindsey.

STATEMENT OF JAN LINDSEY, CASA, COURT-APPOINTED SPECIAL ADVOCATE

Ms. Lindsey. My name is Jan Lindsey and I'm a State director of the Arizona Court-Appointed Special Advocate or CASA program administered by the Arizona Supreme Court. Thank you very much for the opportunity to testify this morning.

I'm here to speak on behalf of the National Court-Appointed Special Advocate (CASA). The association supports the reauthorization of this agency. The Court-Appointed Special Advocate Association program provides carefully screened, specially trained volunteers to advocate in court on behalf of abused and neglected children. The National CASA Association is a nonprofit organization which provides extensive support to existing local programs and facilities and the establishment of new ones.

At present there are 286 CASA programs in 45 States and new programs are beginning at the rate of approximately four per month. We now have approximately 12,000 volunteers throughout the Nation serving about 45,000 of the country's most needy children. A volunteer—at CASA the work is founded on the premise that intervention and appropriate handling can prevent child victims from becoming juvenile and adult perpetrators.

Our juvenile detention facilities, training schools and adult prisons have many men and women who are themselves victims of abuse and neglect. If they'd received the kind of services and support they'd needed as victims, they might well be tax-paying citizens today.

There are three main roles which the CASA volunteer plays. First, CASA completes and independent investigation of the case, an advocate for deed of services for the child and family and the plan is to return the child home, which is always the goal, if at all possible.

CASA acts as the eyes and ears of the court, providing written reports and testimony to the juvenile court judge, giving the judge the maximum amount of information to make the best decision possible.

So CASA is consistent in the life of the child during court proceedings during case worker changes. If the child needs to have a different foster home or if the parents filter in and out of their lives as may happen at times. CASA volunteers are offering programs to keep families together to providing services to prevent the child's placement in foster care. Volunteers unquestionably have people to provide a different living environment for our children and provide desperately needed information to the court.

One of the greatest benefits to the child is the opportunity to have the CASA volunteer that this case provides. Unquestionably, children with the CASA volunteer provides a chance of living in personal homes than children who do not have a volunteer. For example, in Houston, Texas, children who do not have a volunteer spend an average of 18 months in foster care. By comparison, children who have volunteers assigned spend 11 months in foster care. In Arizona it's estimated that the average cost, including administrative costs, to keep one child in foster care for 1 year is well over $10,000.

CASA can reduce the number of times a child is moved following placement. In Houston, the average child in dependency is moving two and a half times over a 30-month period. Out of the Houston program's case load of 75 children, at the time of the study only 12 moves had occurred since the record-keeping was initiated approximately 1 year ago. CASA saves tax dollars.

The CASA program in Seattle, Washington, estimates that it saves that county government more than $2,289,000 a year in legal fees. In Florida, where there's a Statewide CASA program, there's been a saving of $300,000 a year in State supportive foster parents since the program was launched. CASA's available and cost-effective services, CASA volunteers spend an average of 57 hours on each case with 40,000 children being served by CASA each year. That's 2,280,000 donated hours. And at just minimum wage of $3.35 that translates into $7,638,000 worth of services to children provided by volunteers. If this service were being provided by paid attorneys at the rate of approximately $30 an hour, which is a common price for legal services, they would total $68,841,000.

The benefits of CASA, both in human terms and economic savings, are phenomenal. It is vital that resources generated under the provisions of the State and local Juvenile Justice Partnership Act be specifically targeted to the development of CASA programs, both to sustain current efforts and to meet the burdens, including meeting the provisions of that act. That perhaps the single most important recognition of the Federal policy is the link between the primary intervention in the child abuse and juvenile delinquency. Thus its resource is critical and should be encouraged regarding assistance to our Nation's most vulnerable population: child victims.

Senator DeConcini. Thank you very much, Ms. Lindsey, we appreciate your testimony.

[Prepared statement follows:]

NATIONAL COURT APPOINTED SPECIAL ADVOCATE ASSOCIATION
DETAILED TESTIMONY BEFORE THE JUDICIARY COMMITTEE
U.S. SENATE
MONDAY, APRIL 25, 1988
IN SUPPORT OF S 1250 -- REAUTHORIZATION OF THE STATE AND LOCAL CRIMINAL AND JUVENILE JUSTICE PARTNERSHIP ACT

Presented by Jan Lindsey
State Director, Arizona CASA Program
Arizona Supreme Court

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NATIONAL COURT APPOINTED SPECIAL ADVOCATE ASSOCIATION
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SUMMARY

The National Court Appointed Special Advocate (CASA) Association supports the reauthorization of the State and Local Criminal and Juvenile Justice Partnership Act. The provisions of the Act embody federal policy which recognizes the critical relationship between appropriate intervention in child abuse and neglect and the potential for delinquency prevention. The acknowledgement of that relationship in federal policy is critical and has helped encourage vital linkages between disparate systems -- the courts and child welfare services. One such linkage has been developed through establishment of Court Appointed Special Advocate programs.

The National CASA Association is a nonprofit organization established to promote the growth and development of programs which utilize trained volunteers to advocate for abused and neglected children in juvenile dependency proceedings. Our volunteer advocacy work is founded on the premise that early intervention coupled with the appropriate and timely handling of a child's abuse or neglect case can prevent child victims from becoming juvenile and adult perpetrators. Our nation's juvenile detention facilities, training schools and adult jails, lockups and prisons house many young men and women who were themselves victims of abuse and neglect. Had they received the kind of service and support they needed as victims, they might well be taxpaying citizens today.

With support from the Office of Juvenile Justice and Delinquency Prevention, the National CASA Association has provided training and technical assistance to the growing network of 286 program in 45 states that utilize roughly 12,000 volunteers to advocate for approximately 40,000 children. Our work has helped thousands of children find permanence and stability in their lives at substantial savings to the public. Court Appointed Special Advocates or Guardian Ad Litem volunteers help assure that judges receive sufficient information on which to base their decisions by conducting interviews of all parties involved -- the child, his parents and relatives as well as teachers, counselors, ministers; act as a spokesman for a child's best interests; and monitor a child's case to help insure that services are provided in a timely fashion and that deadlines are followed.

The number of CASA programs around the country has grown exponentially since the founding of the first program in 1977. The growth of programs has been particularly dramatic since juvenile justice dollars were targeted to program support and development as early as 1984. The number of programs has more than tripled over that timeframe (from 88 in 1984 to 286 in 1988) and the number of states having programs has increased from 29 to 45. Yet as dramatic as our growth has been, we cover only about 9% of the almost 3,000 potential jurisdictions and serve approximately 14% of the estimated number of children in care. Interest in program development continues to grow. It is vital that resources generated under the provisions of the Juvenile Justice and

Delinquency Prevention Act be specifically targeted to the development of programs both to sustain current efforts and to meet the burgeoning need. The provisions of that Act are perhaps the single most important recognition in federal policy of the vital link between appropriate intervention in child abuse and the prevention of juvenile delinquency. Thus its reauthorization is critical for maintaining federal focus and concern regarding assistance to our nation's most vulnerable population -- child victims.

DESCRIPTION OF THE PROBLEM

In 1985, there were 1.9 million reports of child abuse and neglect in the United States -- roughly 16% end up in the court. The court must then decide what's best for the child -- is it safe for the child to go home, should he be placed in foster care, are special services needed? These are awesome decisions that can impact a child for the rest of his life. For some 270,000 children in this country, the decision has resulted in their placement away from home in foster care or an institutional setting. Numerous studies show that returning abused and neglected children to stable, permanent families can assist in preventing delinquency. Unfortunately, the abused and neglected children who end up in juvenile courts often become part of the costly "foster care drift."[1]

In theory, foster care is designed to be a temporary arrangement, the family separated only for the period necessary to better the situation for the child. But in reality, many of the approximately 270,000 children in the foster care system spend their childhood drifting from foster home to foster home due to a system which fails to either reunite them with their families or expedite permanent placement. Some children literally grow up in the child welfare system. A childhood of such uncertainty and insecurity can have devastating results making children potentially vulnerable to many of our nation's most serious social concerns -- drug abuse, teen pregnancy, mental illness, homelessness. A tragic irony is that many become abusive parents themselves thus perpetuating a vicious cycle.

Unfortunately, others become perpetrators. There is a substantial relationship between child abuse and neglect and juvenile delinquency. Recent studies have shown that 33% of juvenile delinquents suffered from severe abuse, and that 66% of child abuse histories involved a "parent perpetrator."[2] The major cause of crime in the United States is juvenile delinquency. In 1975, 61.5% of those arrested for serious crimes were under 21, 43.1% were under 18. The 11 to 17 year old age group, which is 13.2% of the nation's population, was responsible for 48% of the arrests for property crimes in 1975. Young offenders have higher recidivism than any other age group. The Children's Bureau estimates that one in every nine youths (one in every six male youths), will be referred to juvenile court for a delinquent act before his/her 18th birthday. The costs of both adjudication and incarceration are high. (Costs range from $8,000 to $30,000 annually to keep a delinquent in a juvenile facility.)[3]

Statistics on the relationship between sexual abuse and prostitution are also revealing. Studies show that juvenile prostitutes had experienced more sexual advances by adults and were more often victims of incest and rape than other juveniles.[4] Between 40% and 50% of the reported sexual offenses against children are committed by juveniles.[5]

Experts see a relationship between sexual molestation, lack of parental support, and a career of prostitution. "Abusive sexual experiences may have a significant impact on the victims' developing self-identity and this may relate to the development of adult patterns of female sexual or occupational deviance such as prostitution."[6] Even if a sexually abused child avoids the downward spiral of juvenile prostitution, studies show that sexually victimized children in general have poorer concentration and are more aggressive, withdrawn, antisocial, depressed, fearful, nervous and emotional.[7]

The best interests of the child too often get sidetracked in the current juvenile justice system. Due to enormous case loads and financial restraints on social workers and juvenile court personnel, the process fails to expedite children toward any stable resolution, whether it be returning home to the natural parents or being freed for adoption. One study of 4,000 children in the foster care system predicted that more than half of them would be "living a major part of their childhood in foster families and institutions."[8]

An examination of the roles of the parties involved in juvenile court proceedings reveals the cause for a lack of adequate representation of the child's best interests. The goal of the attorney for the State or state agency is to prove the allegations in the petition. The attorney for the parents has an ethical obligation to represent them zealously. The social worker, with huge caseloads and administrative bureaucracy to deal with, is required to provide services to the entire family within the confines of agency policy. The judge must render a decision based on the evidence presented and is not in a position to advocate for the child. The child's best interests are not represented.

DEVELOPMENT OF CASA PROGRAMS

In 1974, the United State Congress enacted Public Law 93-247, the Child Abuse Prevention and Treatment Act, which provided financial assistance to states for the prevention, identification and treatment of child abuse and neglect. The legislation included a requirement for that assistance: mandatory appointment of a Guardian Ad Litem to represent the abused or neglected child's best interest in every case which results in a judicial proceeding. Mainly due to the Child Abuse Prevention and Treatment Act, 36 states and the District of Columbia require the appointment of a Guardian Ad Litem to represent the best interests of children in abuse/neglect proceedings.

Traditionally, the Guardians Ad Litem appointed to represent children in juvenile court have been attorneys. Often, attorneys are the Guardians Ad Litem as well as the child's legal representative. This causes a conflict of two very separate roles. Attorneys are required to represent their client's views in court, whether in their best interests or not, while Guardians Ad Litem must represent the child's best interests, whether it is what the child wants or not. Besides the expense of attorneys' time, most attorneys have no special training in child advocacy, and they especially do not have the time to do thorough investigations and periodic monitoring of court orders.

"If the lawyer for the child is to decide what is in the child's best interests, nothing in the lawyer's training has equipped him or her to assess parental conduct, to appraise the harms to a child presented by his environment, to recognize strengths in the parent-child relationship, or to evaluate the soundness of an intervention strategy proposed by the social agency."[9]

In 1977 a superior court judge in King County, Washington (Seattle) conceived of a unique program to address these concerns which utilized trained volunteers to serve as Guardians Ad Litem for abused and neglected children whose cases came before his court. The role of the court appointed volunteer was to insure that his child's best interests were represented in court, to gather vital information for the judge and to monitor the case so that the child did not get lost in the system. The volunteers interviewed the child, parents, relatives, teachers, physicians, ministers and gave the kind of attention to a child's case that was often prohibited by large caseloads carried by caseworkers and attorneys. In addition, they offered a unique, unbiased perspective to the judge which was unfettered by bureaucratic loyalties or professional biases. And, many times they brought continuity -- they were the consistent face in the courtroom over the life of the child's case in court.

In the Seattle program's first year, it assigned 110 trained volunteers to 498 children. The next year, the National Center of State Courts selected the Seattle program as the "best national example of citizen participation in the juvenile justice system". Support for the program concept grew and programs began to develop around the country.

The American Bar Association advocates the use of qualified and trained non-attorney Guardians Ad Litem, recruited from concerned individuals and organizations in the community on a paid or volunteer basis. The ABA's Juvenile Justice Standards Project found in 1976 that "While independent representation for a child may be important in protective and custodial proceedings, a representative trained wholly in the law may not be the appropriate choice for this function."[10]

In Deprived Children: A Judicial Response, the National Council of Juvenile and Family Court Judges' Metropolitan Court Judges Committee made 73 recommendations to ameliorate the problems of deprived children who require public custody and protection. The fifteenth recommendation states that CASAs should be utilized by the court at the earliest stage of the court process, where necessary, to communicate the best interests of an abused or neglected child.

EFFECTIVENESS OF THE PROGRAM

The advocacy CASAs provide to children and the courts translates into: 1) public savings; 2) literally millions of valuable hours of volunteer service; 3) quality representation for children; and, most importantly, 4) better services for children.

1. Public Savings

An independent research firm studying a Florida statewide pilot program over three years concluded "that a volunteer model is likely to be the most feasible, least expensive, and most effective means of providing Guardians Ad Litem services to Florida's abused and neglected children."[11] The impact of recommendations made by volunteer Guardians Ad Litem resulting largely from their thorough investigation of placement options, meant less intrusive service for children and dollar savings for the state. For example, "in 45% of 623 cases researched, volunteers recommended placements in less expensive, alternative care settings while awaiting court disposition. This resulted in a decrease in state-supported foster care costs between $200,000 and $300,000 in 1980."[12]

In Florida, Rhode Island and King County, Washington, programs have been able to demonstrate that volunteers can provide effective advocacy for children at substantial savings. Another Florida study found that the actual cost of a volunteer Guardian Ad Litem (GAL) averaged approximately $332 per case in fiscal year 1982. The cost for services of an attorney GAL ranged from $371 for that provided by a Public Defender to $761 provided by a private attorney. The King County program estimated a savings to the county of over $2,289,000 in 1986. Rhode Island has demonstrated comparable savings.

2. Volunteer Service

In a management study conducted by the National CASA Association with funding from the Department of Health and Human Services, it was found that volunteers spend an average of 57 hours per case. Some crude figuring based on our estimate of 40,000 children served yields over 2,280,000 volunteers hours of service to children. If these volunteers had been paid a minimum wage ($3.35), that translates into $7,638,000; if paid at a $100 per hour rate (a common price for legal service, that's $228,000,000 worth of advocacy for children.

3. Quality Representation

An increase in the quality of representation for children through the use of trained advocates was demonstrated in a study performed by Donald N. Duquette and Sarah H. Ramsey in the Genesee

County (Michigan) Juvenile Court in 1981 and 1982. Their study compared the effectiveness of representation between a control group of attorneys with no special training and a demonstration group of attorneys, law students and volunteers who received special training. The demonstration group outscored the control group in all categories. For example, it was found that for the demonstration group:

- The court process moved faster (mean of 34.9 days vs. 60.6 days for the control group);
- the cases were resolved with fewer hearings (2.6 vs. 3.1);
- more cases were diverted from the court process by being resolved in the preliminary hearings (27.3% vs. 14.3%);
- the cases had fewer dispositional hearings (35% vs. 60%) and produced fewer wards of the court (39% vs. 62%).

The authors attribute this outcome to "more careful assessment, screening and diversion of cases by the demonstration groups and perhaps to more watchful advocacy on behalf of a child once made a ward of the Court." Duquette and Ramsey conclude from this data that the demonstration model was clearly successful in improving the quality of representation of the child's best interests and, consequently, in creating better legal outcomes.[13]

4. Better Service to Children

The true bottom line is the impact of CASA volunteer efforts on the children served. Several case examples lend meaning and poignancy to the numbers and statistics quoted.

- An 11-year-old girl, severely abused by her mother's live-in boyfriend, wanted to return home but was afraid. The CASA volunteer's efforts helped prepare the girl for her testimony and brought about a more prompt trial date. The boyfriend was ordered out of the home under threat of a long prison sentence. The mother, thankful both to be rid of the man and to get her daughter back, openly praised the CASA volunteer's work.

- An eight year old Texas boy, found in winter barefoot and

> shirtless at a fire station, had been sodomized by his stepfather. The mother, who displayed borderline pathological behavior, refused to acknowledge that abuse had occurred and clearly chose her husband over her child. Her explosive behavior brought about efforts to terminate her parental rights. Mixed messages about other siblings prompted a tenacious CASA to check birth and marriage records through a CASA in another program. The father, presumed dead, was located and reunited with the son he'd been searching for for six years -- even with the aid of the F.B.I.

There are even more dramatic examples, far too detailed for this discussion. Such examples are documented daily by CASA programs -- cases resulting in family reunification, successful adoptions, implementation of specially needed services, and finding safe, stable living environments.

Research on the human savings however, is more elusive. The Houston, Texas program has implemented a sophisticated evaluation system. Preliminary results suggest that CASA can, in some cases, reduce the amount of time a child spends in foster care. In Houston the average out of home placement is 18 months. By comparison, children who have volunteers assigned spend 11 months in foster care. CASA can reduce the number of times a child is moved while in placement. In Houston, the average child in dependency is moved 2 1/2 times over a 30 month period. Out of the Houston program's caseload of 75 children at the time of the study, only 12 moves had occurred since the record keeping was initiated approximately a year ago.

THE NATIONAL CASA ASSOCIATION'S ROLE

Dedicated to the growth, promotion and development of CASA programs nationwide, the National Association has:

- Provided start-up grants for new programs (in 1987 the Association utilized $20,000 of OJJDP funds for new programs and received a $150,000 grant from the Edna McConnell Clark Foundation to be passed entirely to developing programs);

- Trained program managers in such areas as volunteer recruitment and retention, fundraising, staff management, etc. (in 1987, 180 program directors received training through the five Regional Management Training Seminars);

- Sponsored its sixth National Conference attracting program directors, volunteers, judges and other child advocates from around the country.

- Published a quarterly newsletter, The Connection which keeps the network informed regarding new innovations, laws effecting programs and issues of concern to volunteers -- and we published Feedback which provides timely information alerts to our local programs on topics such as funding opportunities;

- Established a clearinghouse including prize winning materials from CASA programs, sample legislation, and other resources needed by the network;

- During a six month period, the Association provided technical assistance and consultation to over 180 requests from people starting programs and from program directors needing assistance with special problems; responded to over 350 inquiries about our volunteer work from the general public; and gave basic information to 56 people interested in implementing a program.

- Promoted the CASA concept by providing speakers and faculty for meetings held around the country, and by encouraging articles and programs in national media (Redbook, Modern Maturity, National Public Radio) to spread the word about how CASA volunteers are helping abused and neglected children.

- Developed specialized publications -- Legal Liability Report and a new manual on program development.

The National Court Appointed Special Advocate Association was founded in 1982 to promote the growth of CASA programs and to provide a mechanism for the exchange of resources and information. Supported by the Edna McConnell Clark Foundation and the National Council of Juvenile and Family Court Judges, the Association hosted its first national conference in 1983. In 1984, the Association incorporated as a nonprofit membership organization, and received assistance from the Child Development Foundation, IBM and the U.S. Department of Justice's Office of Juvenile Justice and Delinquent Prevention (OJJDP).

1985 was an eventful year, as the Association received the President's Volunteer Action Award, a Coordinated Discretionary Grant from the Department of Health and Human Services for a management survey, and negotiated a three year cooperative agreement with the Office of Juvenile Justice and Delinquency Prevention to provide technical assistance and training to the growing network of programs.

In addition to its ongoing support, the Edna McConnell Clark Foundation awarded funds in 1987 to allow the Association to provide start-up grants to 30 new CASA programs. Kiwanis International selected CASA as one of its major emphasis programs for 1987.

Since the first program was established in Seattle, in 1977, the number of CASA programs has grown exponentially, with most of that occurring since the National CASA Association was established in 1982. There are currently over 286 programs operating in 45 states, five of which (North Carolina, South Carolina, Florida, Rhode Island, and Delaware) mandate and fund state-wide programs. More than 12,000 volunteers serve over 40,000 children annually.

FUTURE NEEDS

The Association's membership and services continue to grow; new programs are starting up at a rate of approximately four per month. Yet, there are still over 2,700 jurisdictions in the country with no CASA program and approximately 230,000 children in need of a volunteer.

The Board of Directors of the National Association has established an ambitious goal -- to assure that a CASA be appointed for every child who needs one by the year 2000. We need then to establish almost 230 new programs a year and serve an additional 19,200 children each year for the next 12 years! To accomplish this goal, the Association has established three basic objectives:

- To promote the development of new programs
- To support existing programs
- To enhance our clearinghouse and distribution of information

Since receipt of funding from the Office of Juvenile Justice and Delinquency Prevention, the number of CASA programs has more than tripled from 88 in 1984 to 286 in 1988. Our network has continued to grow at a rate of four new programs per month. Yet, funding to support those programs has remained constant over the last three years. This, in order to assure continued service to existing programs and to insure institutionalization of the CASA concept around the nation through program development, the National Court Appointed Special Advocate Association is respectfully requesting that the Committee give consideration to a specific authorization within the State and Local Criminal and Juvenile Justice Partnership Act for support of the National CASA Association's volunteer advocacy efforts on behalf of abused and neglected children. In light of our dramatic growth over the past three years and in recognition of our substantial savings to the American public, we further request an increase in funds for a total authorization of 2.25 million dollars for each fiscal year reauthorized.

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Senator **DeConcini**. We'll now go to the chief of police from Flagstaff, Gary Latham.

STATEMENT OF GARY LATHAM, POLICE CHIEF, CITY OF FLAGSTAFF

Mr. **Latham**. Thank you, Senator DeConcini.

My name is Gary Latham, chief of police, city of Flagstaff. In northern Arizona the drug problem is twofold. First of all is the local abuse problem. Second is the smuggling problem.

On the local scene I'm particularly concerned with the increase in use of our young people. 80 per cent of the people on probation in Conconino County of the juveniles either have drug-abuse problems personally or it's in their families. From 1984 to 1987 juvenile referrals have increased 100 per cent in Coconino County to both those drug-related type crimes.

As far as adults, of the 2,000 adults on probation in Coconino County, 90 per cent have drug-related problems; 60 per cent of those have drug and alcohol problems.

We see a direct correlation between the crime rate, which has been increasing significantly, and the narcotics drug-abuse problems. We've seen shootings, stabbings, organized shoplifting rings and all types of related crimes due to the increase in drug abuse and trafficking in northern Arizona.

As far as the transient smuggling problem, as you're well aware, sir, we're located on Interstate 40, which is a major east-west highway through the United States. We have drugs moving in significant amounts each day through northern Arizona on 40. Otherwise, we are also a remote area and we have a significant amount of air traffic coming in the form of smuggling.

With the increased pressure in Florida and increased pressure on the Mexican border here, as you stated in your opening remarks, this traffic is coming into Arizona and into northern Arizona. The agencies in northern Arizona are small. My department is less than 100 people and it's considered a large agency in northern Arizona. We do not have the resources to address narcotics specifically. Our services are traditional. We respond to calls for service. We follow up on crimes. No one agency has the resources to address this problem.

What we've done is we've formed a multi-agency group made of the United States Customs Service, FBI, DEA, Department of Public Safety, Coconino County Sheriff's Department, Northern Arizona University Police Department, Coconino County Attorney's Office and the Flagstaff Police Department, and this unit is specifically designed to address narcotic smuggling and street-level dealings. And in the last year we've been in operation we've made some significant progress in this area. We've indicted over 200 persons and seized a significant amount of narcotics.

We feel that the only way to address this problem is through the multiagency cooperative effort because no one agency has the resources to do this. The only way that we can continue this is through Federal funding, at least in part. We need buy money. We need operation money and we need overtime money. I think we can continue successfully.

To give you one quick example, previous to the multiagency unit we would stop a violator transporting, say, 10 pounds of cocaine on I-40 and he would be charged locally. And he may never appear and face trial over there. If he did face trial, it would be on local charges.

Now, instead of just convicting this one local-level mule or transporter, we can follow this up to the source by working with the Federal agencies and State agencies. I would say in the last year I've seen a tremendous increase in cooperation between Federal, local and State agencies and I think we're headed in the right direction. I think the asset sharing has been a tremendous thing for us and I hope that program is continued.

In closing, I think the long-term effect, obviously, is through educational intervention. We are participating in that with the schools in the D.A.R.E. program, which I think is of tremendous importance in the community by the organizations that support drug education. I would like to commend you on your efforts on behalf of law enforcement on behalf of this problem. I think you set an example many years ago when you started the Strike Force and the four-county operation down here in Pima County. Thank you for this opportunity to testify.

Senator DECONCINI. Thank you very much.

[Prepared statement follows:]

TESTIMONY OF GARY D. LATHAM, CHIEF OF POLICE, FLAGSTAFF, ARIZONA, BEFORE THE UNITED STATES SENATE COMMITTEE ON THE JUDICIARY, REFERENCE S.1250 HELD IN TUCSON, ARIZONA ON APRIL 25, 1988.

SENATOR DECONCINI AND MEMBERS OF THE COMMITTEE ON THE JUDICIARY:

Thank you for this opportunity to express my views on S.1250. I have outlined the problems and some proposed solutions, as well as what we are currently doing to combat the drug problem in Flagstaff and Northern Arizona.

In Flagstaff and Northern Arizona, as well as throughout the nation, the use and abuse of illegal drugs has become an epidemic. Many people feel it is the nation's number one problem. Of particular concern is the threat drug abuse presents to our youth. This manifests itself is criminal behavior, school dropouts, ruined lives, and death due to overdose. Indirectly, the continuing widespread acceptance of illegal drug use sends a message to our young people that they can selectively disobey laws, which is contrary to our American system of justice.

A strong enforcement policy needs to be adopted and aggressively pursued, from investigation through prosecution and sentencing.
If it is known that the police, prosecutors, and courts generally ignore drug enforcement or treat it lightly, there is little incentive to obey the law. Why should a high school student work for minimum wage in a fast food restaurant when he/she can make $500 - $1,000 per week dealing dope? Unless there is a strong enforcement deterrent, coupled with prevention education, the question may be rhetorical. It

is imperative that federal funding be made available to enforcement agencies at all levels to bring illegal drug trafficking under control.

The Drug Problem in Arizona

Mexico is the leading supplier of marijuana to the United States supplying 37% of the annual consumption. Mexico is also the largest single source of heroin. The most recent change in Mexican narcotic trafficking is in the transportation of cocaine from Colombia across Mexico into the United States. The alliance of Mexican and Colombian narcotics cartels in this effort has caused the Mexican Government concern for their national security.

This readily available supply of drugs in Mexico, coupled with the increasing demand and low risk of detection, has facilitated the development of sophisticated distribution systems that cross local and national jurisdictional boundaries at will. The illicit profits from drug trafficking (estimated to from 70 to 110 billion dollars per year) allows the traffickers to purchase sophisticated equipment, corrupt public officials, and thwart less well funded law enforcement agencies.

Drugs are imported into Arizona from Mexico by foot, ground vehicles and aircraft. The remoteness of the border and the state in general creates unique enforcement problems. There are 176 legitimate airstrips, both public and private, in the state of Arizona; there are also 70 heliports. In addition to the legitimate strips, law enforcement agencies estimate that there are approximately 1,000 clandestine strips in remote areas. There are many miles of unimproved and secondary dirt roads that serve both ground and air traffic; this along with low population and law enforcement density allows drug trafficking to occur unobserved.

Northern Arizona

Northern Arizona, consisting of Coconino, Mohave, Navajo, and Apache counties, is less densely populated than other areas of the state. The Navajo and Hopi Indian reservations create additional jurisdictional questions in regard to enforcement and prosecution of drug runners. Historically, isolated roads and airstrips have been used by air smugglers both on and off the Indian reservations. Flagstaff, which is centrally located on I-40, is used by ground transporters going both east, west and north. Drug transporters have been arrested traveling in all three directions. Drugs in larger quantities are most often not intended for local distribution but are destined out of state and to larger cities. The cost of apprehension and prosecution, however, is borne by local agencies. We are often thwarted by the lack of adequate investigative or prosecutorial resources, along with the traffickers ease of movement across jurisdictional lines. As enforcement efforts are increased on the Mexican Border, the use of Northern Arizona locations will increase as it did in regard to marijuana smuggling in the 1970's. The increase will result in more interdictions and require additional expenditures for enforcement and prosecution at the local level. Federal funding can be of great assistance in this area.

The City of Flagstaff and surrounding communities are all affected by the acceptance of the use and distribution of drugs as a way of life by a large segment of the population. Juvenile detention authorities in Flagstaff state that 80% of all juveniles who are put on probation locally have a drug abuse problem either personally or in the immediate family. Total juvenile referrals have increased in Coconino County from 1,046 in 1984 to 2,123 in 1987. Adult probation officers estimate that in Flagstaff of the 2,000 adults on probation, 90 to 95% have an alcohol or drug problem. They further estimate that 60% have both an alcohol and drug problem. Experience has shown a direct correlation between habitual drug use and repetitive violent crime.

The Flagstaff Community is representative of most local jurisdictions in regard to the problems created by both local and national drug abuse patterns. Violent crime is increasing as drug dependency becomes prevalent. Property crimes become unmanageable and costs for treatment and counseling for drug related problems become unaffordable. The drug problem in America is both a local and federal problem. The local community must deal with the resident abusers and distributors who provide the demand that fuels the national and international machinery that can corrupt officials and control countries of drug origin. The Federal Government must address the unprecedented demand in the United States as a whole that creates the supply machinery and all of the international problems related to supplying this almost insatiable market.

Local, state, and federal agencies must cooperate in the areas of education, apprehension, and treatment to reduce both the demand and supply of illicit drugs. Most local agencies are restricted in the availability of resources that can be allocated to long term or multi-jurisdictional narcotics investigations. The problems confronting most local jurisdictions are primarily:

1. The primary mission of local agencies is to respond to calls for service which encompass a variety of general police duties related to protection of life and property.

2. The budget allocations of local departments are appropriated to provide for uniform patrol coverage and the investigation of general crimes as they are reported or observed.

3. Narcotics investigation requires additional dedicated manpower, equipment, and operating funds that are beyond the normal budget for police service in the local community.

4. Local agencies can at best provide minimal resources to pursue narcotics violators due to the increasing demands for traditional police service.

5. Local agencies normally have an abundance of street information in regard to narcotic trafficking. Jurisdictional possessiveness and lack of coordination and funding often result in a lack of follow-up on multi-jurisdictional violators.

6. The mobility of drug traffickers across jurisdictional lines inhibits their pursuit by local agencies. Local police agencies lack the resources and jurisdictional flexibility to conduct multi-jurisdictional investigations. Intelligence is fragmented as

traffickers operate in more than one area.

7. Most smaller agencies do not have undercover resources to pursue violators. By the time an officer is experienced enough to assign to narcotics he/she is known to the community.

The burden of on-going calls for service, the lack of undercover resources, personnel, surveillance equipment, and funding, coupled with jurisdictional possessiveness, has inhibited the effectiveness of local jurisdictions to interdict the flow of narcotics into the communities of Arizona.

A Proposed Solution

The successful interdiction of drug abuse requires that there be predictable deterrent to the abuse and sale of drugs to restrict the available supply. In addition, steps must be taken to reduce or eliminate the demand that provides the money that fuels the distribution systems.

The police agencies in Flagstaff have adopted a two prong approach to reduce drug abuse and distribution:

1. To reduce the supply of drugs by coordinating multi-agency resources toward the interdiction and apprehension of violators.

2. To reduce demand through education and awareness on the part of the community.

The police agencies in the geographic area of Flagstaff have consolidated their available resources into a MULTI-AGENCY EFFORT to provide a predictable deterrent to drug use and distribution. A significant portion of this cost is borne by the local agencies, i.e., personnel and equipment. The State of Arizona has assisted in funding and furnishing of resources, through the state drug plan and the Arizona Department of Public Safety.

The Multi-Agency Unit as a Deterrent to Drug Abuse

The history of narcotics enforcement in the geographic area of Flagstaff has been a series of time periods during which each of the five local agencies have worked independently with inadequate resources and fragmented intelligence. These periods were interrupted on three occasions by the formation of multi-agency units. The number of narcotic seizures and arrests were drastically increased during these periods of multi-agency cooperative effort.

The current cooperative effort in Flagstaff was initiated during an investigation which was a cooperative effort which involved the FBI, Arizona Department of Public Safety, Flagstaff Police Department, and Coconino County Sheriff's Office. This year-long investigation resulted in the conviction of eighteen people and dismantled a continuing criminal enterprise. This investigation was beyond the capabilities of any of the individual departments that participated. The success of the investigation and concern on the part of local police officials and citizens prompted the formation of the Northern

Arizona Metro Unit.

The Metro Unit has consolidated the resources of all the participating agencies into a coordinated effort to pursue narcotics investigations at the appropriate jurisdiction. The unit receives direction from a board that consists of representatives from each participating agency. The current board represents the FBI, U.S. Customs, Arizona Department of Public Safety, Coconino County Sheriff's Office, Flagstaff Police Department, Northern Arizona University Police Department, and the Coconino County Attorney's Office. The unit provides the necessary manpower to conduct long term, multi-jurisdictional, complex investigations while allowing the participating agencies to maintain their response traditional police service. The consolidation of intelligence, the pooling of resources, and the elimination of jurisdictional possessiveness has promoted the timely investigation of narcotics violators at the most efficient level of jurisdiction. The Metro Unit during its first year of existence through December 31 1987, was responsible for filing 255 narcotics charges, seizing 800 pounds of marijuana, 3.5 pounds of Cocaine, and sixteen vehicles.

Several local investigations have resulted in following leads to the source of drugs in Mexico and adjacent states because the unit is specifically oriented to pursue the cases to the highest level of prosecution. In one instance, a one eighth ounce marijuana purchase in Flagstaff was turned into a 100 pound purchase the following week in Yavapai County. Search warrants were subsequently served in Phoenix and Glendale. A three hundred pound marijuana seizure in Peoria, Arizona, was initiated from a one pound buy in Cottonwood. The three hundred pound seizure prompted a kidnapping in Mexico and a subsequent dispute within the organization under investigation. This resulted in the shooting death of the prime smuggling suspect and the wounding of another member of the organization.

The Flagstaff Metro Unit recently arrested a major cocaine distributor from Los Angeles, California. The distributor was arrested after a follow-up investigation was conducted from a traffic stop that resulted in the arrest of an individual with one kilo of cocaine. In the past, the transporter would have been charged in Coconino County and the investigation would have ended. The cooperation of federal and local authorities through the Metro Unit facilitated the interstate investigation that identified a significant cocaine distribution ring and the indictment and arrest of an out-of-state kingpin. We feel the formation of this unit is making a significant impact on local and statewide narcotics trafficking.

The recent changes to permit federal asset forfeiture sharing has promoted a spirit of cooperation in that local jurisdictions can now receive an equitable share of any seizures or forfeitures that are the result of a cooperative investigation. These assets can be plowed back into enforcement efforts.

The experiences of the Flagstaff area law enforcement agencies indicate that due to the scope of the narcotics problem, the limited resources available to each agency, the manpower expenditures required, and the mobility of violators, the only effective approach to interdiction has been the consolidation of resources and efforts through multi-agency investigation. The removal of jurisdictional disputes and the consolidation of intelligence and investigative resources ensures that an investigation will be pursued at the most effective level.

Federal funding assistance for multi-agency investigative units at the state and local level will combine the street intelligence of local agencies with the mobility and resources of federal and state agencies, allowing violators to be pursued from the street level to the source.

Funding Recommendations

1. Funding of Multi Agency interdiction efforts for the short term deterrent effect on supply. (Personnel, overtime, buy and operating money.) Multi-agency cooperative investigations are the best short term approach to narcotics interdiction. The interdiction efforts are at best an attempt to restrict supply and provide a deterrent to use while the American demand for drugs is eliminated or impacted by a shift in attitude that can only be obtained through education and a voluntary compliance.

2. Funding of local anti-drug education cooperative efforts, such as Drug Abuse Resistance Education (D.A.R.E.), for long term effect on demand.

The Flagstaff Police Department, along with the Coconino County Sheriff's Office and the Arizona Department of Public Safety, currently have provided special training to officers who present the D.A.R.E. program in all 5th grade classes in the Flagstaff School District. It is our long term goal to expand this program to the lower grades and junior high students. Federal funding would be most beneficial in this area.

Conclusion

The long term solution to the drug abuse problem is prevention through education. We are committed to that concept. This, coupled with strict enforcement through cooperative multi-jurisdictional units will help to bring this blight upon our state under control. An integral part of the success of this plan is federal support in the form of funding, assistance and agency cooperation.

Senator DECONCINI. I'm going to have some questions for all of you, but right now we will move to Mr. Ellsworth.

STATEMENT OF DAVID ELLSWORTH, YUMA COUNTY ATTORNEY

Mr. ELLSWORTH. Sen. DeConcini, I want to express my appreciation for the opportunity to come here. If I can do some little thing to assist, I'm more than happy to do so because that assistance is of great help to me and my county.

I represent here, I presume, having been asked to come, the rural prosecutor and I would presume also that you're interested in knowing the difficulties that we face and how this partnership that has been created between the Federal, the State and the local levels can be more effectively operated and how it's assisting me.

I think as a basic background I must say that rural counties in Arizona are faced with difficult financial problems. Programs that have been put on them, as it were, by the State are a significant financial burden. The dollars are limited. We're limited by statutory and constitutional provisions both in our generating of funds and on the expenditure of funds. And notwithstanding that, the tax burden locally s significant, as a consequence of which the general funds of the county which support the prosecution effort are limited.

In 1983, when Yuma County became Yuma and La Paz Counties, my prosecution staff was reduced to three prosecutors without a significant reduction in case load. Through those years I have struggled, asking for more prosecutors and more resources and they have been denied to me, not because the need wasn't recognized but because the funds weren't there. I now have a prosecution staff of five. The only reason I have that many is because of assistance from the State through what's known as the Fund, the Criminal Prosecution Enhancement Fund that's generated by a surcharge on all the funds collected through the State, and as a consequence divided back into the criminal justice system, from the courts on down to prosecutors and law enforcement agencies to assist us.

That fund has been utilized by my office to enhance salaries and to add additional prosecutors, and that's the only reason I have five. And what's significant in that is in my county last year we filed 811 felony cases and an equal number of misdemeanor cases. In addition to that, the fugitives, declinations, juveniles, all add up to over 2500, as I recall, cases handled by my office during that year with a staff of five.

I must add that we supplement that with myself and with my civil deputy because criminal prosecution is the most important thing we do. So if it weren't for the State we wouldn't be there. But yet I've been asking for seven prosecutors. I feel that that's essential. We now have the opportunity to put an additional prosecutor on the staff using funds that have come from the Criminal Justice Commission which, of course, as you're aware, is a combination of State funds and Federal funds that are used in that area.

We have also been enhanced in our ability to deal with crime in our community by virtue of the beefing up of an agency that we created in the Southwest Border Alliance, which as Chief Latham has indicated in the counties, in our communities, is a combination of all of the Federal agencies, in addition to all of the State agencies, combined together with personnel and resources, targeted specifically on the drug problem.

In that connection I would mention that we find, by statistics, over 24 per cent of our felony charges are straight drug charges. This does not account for drug-related offenses. We estimate that as much as 75 per cent of the cases that we see we feel are drug related in one form or another, and these take the form of homicides, aggravated assaults, burglaries and thefts almost without number, all relating directly back to the drug problem.

And our drug problem is twofold also: the local use, but also the importation through our community which, incidentally, has approximately 350 miles of basically unprotected border on the Republic of Mexico.

In conclusion I would say that this additional prosecutor, who will be assigned as a staff attorney as counsel for the Alliance, will prosecute all major drug felony cases, supervise the charging of all drug cases and do the day-to-day counsel and advice on drug arrest scene work for my office with the Border Alliance, which is a viable addition to the drug effort in my county, and incidentally to the prosecution generally because of the interrelationship of all of the charges, all of the cases with drugs. Without this partnership with the Federal Government and the funds coming through the State to us, we would be severely curtailed. That prosecutor is essential to a continuation of our program. We have been holding the line and that's about all.

We have for years felt the lack of the ability to go out and attack the problem. We will, with this assistance, be able to do just that, and hopefully with forfeitures and monies generated in that way, with perhaps more funds from the State, we can add another prosecutor and really get on top of it.

And so our thanks to you and to this prospective funding that we sincerely hope will be forthcoming. From what we have seen, we're grateful, and it wouldn't work if it's only for 1 year, it won't work at all. We have got to have time to gear up to that effort and be able to provide the funding that will sustain it, so we desperately need a continuation of what's been provided.

Senator DeConcini. Thank you very much, Mr. Ellsworth.

[Letter to Senator DeConcini follows:]

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CHIEF DEPUTY

John K. White
CHIEF CIVIL DEPUTY

April 19, 1988

Senator Dennis DeConcini
United States Senate
Washington, DC 20510-6275

RE: Senate Judiciary Committee
Hearing April 25, 1988
Tucson, Arizona

Dear Dennis:

I received your invitation to testify before the Senate Judiciary Committee. The letter indicates some areas you feel would be of interest to the Committee and anticipates a written statement. I sincerely hope the following will satisfy your request.

CURRENT STATUS, YUMA COUNTY ATTORNEY'S OFFICE

BACKGROUND:

Yuma County consists of approximately 5,561 square miles. Our population according to the 1980 census was 78,000. Current estimates place our population at close to 90,000. These figures do not account for the influx of seasonal agricultural workers and do not count approximately 30,000 winter visitors who come to our county each year. Because of our winter climate we seem to attract a large number of the homeless and unemployed.

Mexico is our neighbor to the south. We share approximately 350 miles of border. Yuma County, along with the other three Arizona border counties forms a corridor of drug traffic that impacts not only our counties and Arizona but the nation.

The geographic composition of Yuma County, our proximity to Mexico, the presence of a major freeway traversing our county and the often transient nature of our population combine to make Yuma County peculiarly susceptible to crime. Particularly in the area of drug and drug related offenses.

ARS 11-532 prescribes the basic prosecution responsibility of my office and states; "The county attorney is the public prosecutor of the county. He shall: ...conduct, on behalf of the state, all prosecutions for public offenses."

All felony offenses committed within the County and all misdemeanor offenses committed within the unincorporated areas of the county are prosecuted by the county attorneys office. In addition we handle all juvenile referrals.

WORKLOAD:

The following figures demonstrate the seriousness of crime in Yuma County and its escalation during recent years, from the prosecution viewpoint. The increase is no less spectacular in the years preceding these figures. These are figures from our records. They reflect matters that demand the time and attention of a prosecutor. In other words the workload.

Caseload	1985	1986	1987	(to date) (1988)
Felonies filed	630	711	811	(273)
Misdemeanors	428	518	598	(209)
Fugitives	60	56	85	(24)
Juvenile referrals	537	438	616	(137)
Declinations	415	485	576	(209)
Total	2,070	2,208	2,686	(852)

PROSECUTION STAFF:

Throughout these years the budgets for my office have provided five prosecutors positions in addition to myself and one civil deputy. Prosecution is the primary function and as a consequence both the civil deputy and myself act as prosecutors as time permits.

Inadequate salaries, until 1987, made it impossible to fill vacant positions, we operated in 1985 with effectively 4.4 prosecutors, in 1986 3.9 prosecutors. In 1987 using accumulated State Prosecution Enhancement Funds we were able to convince the County Board of Supervisor to enhance our salary schedule. The increase in salaries allowed us to fill our vacant positions and retain our experienced prosecutors.

It is apparent from workload figures that the caseload for each prosecutor is beyond anything that is reasonable and the problem is escalating. Without additional resources we will slip slowly but surely behind.

IMPACT EVALUATION:

Notwithstanding our limited resources I believe our prosecution effort has considerable impact on the criminal activity in Yuma County. Only Maricopa and Pima Counties send more criminals to the Arizona Department of Corrections.

In 1985, of the 630 felony cases filed, 619 were closed. Of those cases 503 were found guilty, 109 dismissed because of insufficient available evidence and 7 were found not guilty.

In 1986, of the 711 felonies filed, 497 were closed. Of this amount 403 were found guilty, 90 dismissed for insufficient evidence and 4 found not guilty.

In 1987, of the 811 felony cases filed, 610 were closed. Of these 433 were found guilty, 177 were dismissed and 6 found not guilty.

The difference between cases filed and cases closed represents outstanding warrants and open files.

Given additional resources we could do much better. The success we do experience must be attributed to the dedication of professional prosecutors working under adverse conditions, limited by a lack of adequate resources.

LONG-RANGE PLANS AND STRATEGIES:

The real consideration is however, not what impact we do have, but rather what impact we could have given the resources necessary to attack the problem.

In 1987 the Arizona Legislature changed and enhanced the Arizona Drug Statutes. Penalties were substantially increased. The new statutes require substantial and additional commitment of resources from law enforcement and the criminal justice system in general.

Local law enforcement agencies, combining with federal agencies in Yuma County have formed the Southwest Border Alliance. Personnel and resources from each department have been assigned to this special task force. This effort targets on drug enforcement. The Alliance began operation in March of 1987. The filing of drug offenses, both felony and misdemeanor, are on the increase.

As previously indicated we filed 811 felony cases in 1987, 193 or approximately 24% of the total cases were felony drug offenses. These are only the drug statute cases. The figure does not include all drug related cases.

I do not have statistics available but we estimate that as much as 75% of all cases are drug related in one way or another. A great deal of our property crimes, burglary and theft stem from the criminal's need to finance a drug addition. At least two major homicides recently arose from drug related transactions. Numerous aggravated assaults and robberies come from the same source.

The Southwest Border Alliance effort is funded by the various departments involved, local, state and federal. We have recently been awarded a grant from the Arizona Criminal Justice Commission which will supplement these local contributions. With these additional funds the Alliance will be able to have a much greater impact on drug offenses in Yuma County.

Funds from the Commission are a combination of Federal funds matched with State funds.

My office applied for a similar grant which has been approved. The funds will provide an experienced prosecutor, secretary and some operating funds.

Anticipating those funds, I have assigned one of my experienced prosecutors to the drug enforcement effort. The increased activity of the Alliance is already impacting my staff. His assignment is to supervise all drug charging and prosecution and to personally prosecute all major drug related cases.

This attorney will be special counsel to the Southwest Border Alliance and on call at all times to assist them.

Without this grant, given the increased caseload generated by the new emphasis on drug enforcement, my limited staff would be overloaded to the breaking point and will be until the newly created vacancy is filled. Without the ability to vigorously prosecute each case, giving it the time and attention required would result in a serious reduction of our impact on crime in our county.

With the grant we will have a substantial impact on drug offenses in our county and a corresponding impact on many other offenses. With conservatively 75% of our criminal cases related to drugs the impact could be remarkable.

The continuation of the federal funding is essential to this plan. Without federal assistance the program would not be possible.

LOCAL FUNDING:

Beginning in 1985 I requested not only increased salaries for our existing staff, but two additional prosecutors, support staff and operation expenses. These requests were essential, in my judgment, to ease the workload and provide more effective prosecution.

My requests were and continue to be denied, not because the need is not recognized, but simply for the lack of available funds.

Funds available to operate county government are limited. The County ability to generate and spend revenue is limited by constitutional and statutory provisions. In order to grant my demands the Board of Supervisors would have been required to divert funds from other mandated programs; as for example, indigent health care. This county service has grown to the point where it requires approximately 34% of Yuma County's General Fund Budget. Funds required by this and similar programs continue to increase and erode the ability of local government to support the remaining services. One of the hardest hit areas, in terms of need, is the criminal justice system.

There simply are not enough funds available on a local level to support the demands on local government for service.

As previously stated, I was able to enhance my salary structure with the use of State allocated funds. The funds come from a surcharge imposed on all fines collected in the Arizona courts. This surcharge, collected through the State, is distributed according to a legislative formula. They are allocated back to the criminal justice system in the counties and to agencies that support the criminal justice system on a state level. Without this fund my prosecution staff would be reduced to 3.5 prosecutors.

For Fiscal Year 1987-88, I am allocated $433,198 from the General Fund. This figure combined with $108,678 of accumulated funds from the Criminal Prosecution Enhancement Fund gives the office a total budget, for the current fiscal year, of $541,875. Of this amount $436,553 is budgeted for salaries. This leaves $105,322 to cover all other department expenses. This amount must cover not only office supplies, equipment and facilities but the costs of prosecution.

It is our hope and expectation that revenue will be available from a fund generated by criminal forfeitures. This fund will be, under State law, administered by my office. Just when these funds will be available and in what amount is yet to be determined.

SUMMARY AND CONCLUSION:

Charged with the responsibility to prosecute all public offenses in Yuma County, given the resources allocated, combining both local and State available revenue we are unable to keep pace with the escalating criminal case load. With five prosecutors doing the work of seven, with inadequate support staff and insufficient budgeted funds to cover the costs of prosecution we can do little more than keep the lid on, we lack the resources to attack the criminal element in and passing through our jurisdiction.

The federal assistance, we will shortly receive, makes possible a new concerted effort in Yuma County prosecution. We believe we can now go out and attack areas of criminal activity we have not been previously able to impact. We need continued help. A one year grant is not sufficient. Without continued federal assistance we cannot maintain this program.

Senate Bill 1250, designed to provide federal assistance to local law enforcement, would assure that continuation and fill a void that local government is simply unable to handle.

Respectfully,

David S. Ellsworth
Yuma County Attorney

Senator DECONCINI. Mr. Morrison?

STATEMENT OF REG T. MORRISON, PIMA COUNTY BOARD OF SUPERVISORS

Mr. MORRISON. Good morning, Senator DeConcini, law enforcement officers, government officials and citizens.

My name is Reg Morrison, Pima County Board of Supervisors. The drug problem has become part of our daily lives in the United States, and the seriousness of it cannot be overemphasized. Frequent media exposure is necessary to reveal the extent of the problem.

Of all the threats to this country, drugs are the most mentioned. The very fiber, the very effective fiber of our social system, the family. Drugs have reached our borders, our streets and it's now threatening the security of our homes.

When young men in our State and even in neighboring Mexico aspire to be drug dealers in order to make a quick buck, rather than to become decent, law-abiding citizens, we must address the crisis with all the resources we have available. We need to formulate a fresh start and to take drastic action.

The solutions must spring from a coordinated effort of all segments of the government and society: law enforcement, courts, schools, clergy, work place, even the media.

We cannot slip back and allow the complacency of the Seventies to take hold again. Drugs are more menacing today than they have ever been. Marijuana is ten times more dangerous because of hybridization. Researchers now say that cocaine is one of the most addictive substances known to man. Crack causes the most immediate addiction and is now affordable to our schoolchildren.

We must reduce the supply of drugs and we must plug the Cocaine Corridor. We must also increase our force and become tough on the drug dealers. At the same time that we raise the stakes for the drug moguls we must commit ourselves to the youth who are continuously at risk.

We must develop programs to educate our young people to the insidiousness of drugs. The constancy of surveillance must be maintained until it is no longer fashionable to pop pills in the fourth grade or to snort cocaine before the high school football game. Without strong programs we will only increase the number of people going to prison.

Seventy-five per cent of our prisoners are now there because of chemical dependency, and we must have programs to combat drug usage and we must develop new alternatives for incarceration. Pima County simply cannot afford to do this without your support.

The jails we built a few years ago are now very dangerously overfilled. We need more jail bed space just to meet the legally-mandated requirements. A good percentage of the prisoners can be diverted to other programs, but where does this money come from and how do we pay for these programs we need so desperately?

The Federal Government has dealt tirelessly with these issues and have developed some effective solutions in our community with Federal money and local talent. Without your Federal dollars, however, there will be no jail drug programs or organized crime strike forces in southern Arizona. I urge you to continue the funding of these programs and to provide additional money to further enhance these programs.

The county cannot even begin to fight this drug battle without your help.

Senator, I have never in my life been as scared of anything as I am of the drug problem in our city, our county, or State and our country. If we don't do something about it soon, we're going to be involved in and taken over by the drug people. Thank you for coming here and being with us. I think it's a great help.

Senator DECONCINI. Mr. Morrison, thank you, and you certainly have been a community leader for so long.

I want to ask you a couple of questions.

Your statements were very clear and precise, not only as to the threat but as to the monetary problem and the problem that other counties face. I take it that without some Federal assistance and participation, as you indicated, it is just beyond the capacity of the Board of Supervisors to fund some of the programs which are funded now and to implement additional programs.

Mr. MORRISON. Absolutely, Senator.

Senator DECONCINI. Along that line, all four southern Arizona countries have established law enforcement task forces to combat drug problems in one manner or another. Is there a possibility that all four counties could combine their efforts to better utilize their resources in law enforcement, and do you know if this has been explored?

Mr. MORRISON. I don't know. That would probably better come from our sheriff, but I believe the answer to that question—but I believe that that would be a good idea. We've got a large border between Mexico and the counties of southern Arizona.

Senator DECONCINI. Has the amount of dollars, Mr. Morrison, that the county has to spend on law enforcement, increased dramatically?

Mr. MORRISON. Dramatically.

Senator DECONCINI. In the last 2, 3, 5 years?

Mr. MORRISON. It seems that we are the funnel. of course, where drugs are coming in here and it seems even though the more money we spend, the more drugs come in here.

Senator DECONCINI. It's just a little discouraging.

Mr. MORRISON. It's terribly discouraging, Senator. It is my concern that we not only talk about all the efforts that we want to put together here, but we don't seem to vocalize enough, and I'm a firm believer that if you have a war you make it your number one priority, which we talk about, but we haven't been able to do it.

Senator DECONCINI. Mr. Morrison, thank you very much for your long-term commitment to drug education and eradication, I appreciate the effort you've given.

Mr. Ellsworth, let me ask you a couple of questions. The Southwestern Border Alliance Task Force in Yuma has been doing a special job. In the report that I was given last weekend when I was in Yuma from the sheriff there, your office has been awarded funds from the State Criminal Justice Commission for this special prosecutor that you mentioned.

Does this prosecutor only work on Alliance cases or does it work on other criminal cases?

Mr. ELLSWORTH. Senator, the Alliance is targeted on drugs. All of the agencies, law enforcement agencies in Yuma County are represented, perhaps except one, represented on that Alliance, and therefore each agency, whether the individual officer is a member of that task force or not, will funnel their drug cases to the Alliance.

There will, of course, be misdemeanor type charges that perhaps won't reach there, but aside from that, all of the drug prosecutions——

Senator DECONCINI. You do all the drug prosecutions for the Alliance?

Mr. ELLSWORTH. Yes, sir.

Senator DECONCINI. And the assistance from the State comes from some assistance fund for prosecutors? You don't have a deputy attorney general or deputy county attorney or U.S. Attorney taking 40 of these cases?

Mr. ELLSWORTH. None whatsoever.

Senator DECONCINI. The burden is on you?

Mr. ELLSWORTH. The only prosecution that we could conceivably help would be on a city level on the misdemeanors. And the new drug law change and what we're trying to implement would indicate that even the smallest count will be a felony under state law and will be treated as such. And that is our goal and our objective.

Senator DECONCINI. How do you deal with the Federal offenses, the arrests made by Federal authorities? Are those cases turned over to you by the U.S. attorney or are they than brought into the process where it's also a state offense so that you have jurisdiction? What happens there?

Mr. ELLSWORTH. We have a working agreement with the U.S. Attorney's Office that any case that involves our people locally in any way will be prosecuted by my office. Cases that involve multi-jurisdiction, just passing through, that are at the port of entry or within a reasonable distance from them, will be handled by the U.S. Marshal's Office. We have a close working relationship with them and I have had that for many years.

Senator DECONCINI. You have the capacity within your Alliance to decide you're not going to address or prosecute a certain case and let it go on to Los Angeles or Denver or wherever you may think it might end up. Is that how coordinated and sophisticated you are with tying in with the Federal?

Mr. ELLSWORTH. Most assuredly. Someone will prosecute every case; if they don't, I will.

Senator DECONCINI. But you do permit some of these cases to be worked through your county and out of your county if it means getting a bigger fish some place else?

Mr. ELLSWORTH. Most assuredly.

Senator DECONCINI. Has that occurred?

Mr. ELLSWORTH. It has. The one example that comes to mind is one that I gave away. In this agreement it ended up with one of my prosecutors going to New York City and interviewing Customs agents and so forth, and ending up over in San Diego interviewing people and witnesses, and Pima County transported those witnesses to Yuma County Superior Court to try that case. And I sat down with the U.S. Attorney's Office and I said, "This would be more appropriately handled on a Federal level."

Senator DECONCINI. And they agreed?

Mr. ELLSWORTH. They agreed.

Senator DECONCINI. Your task force there just made an arrest of 240 pounds of cocaine?

Mr. ELLSWORTH. 250 pounds of cocaine. But I might mention that's not unusual coming across the border.

Senator DECONCINI. Takes a lot of sophisticated equipment and manpower to follow these leads, obviously.

Mr. ELLSWORTH. Most assuredly.

Senator DECONCINI. Mr. Ellsworth, thank you very much for your participation, and my compliments to the county attorney.

Mr. Collins, we're sorry to see you leaving the county attorney ranks. You've served so well in Maricopa County, the most heavily populated county. You have had horrendous problems there, and I know you're chairman of the Arizona Criminal Justice Commission. I compliment you for your dedication that you've put into this area. You've been closely involved with efforts to increase the amount of Federal and State funds directed to Arizona for drug enforcement.

At the Federal level the president has totally cut out funds to State and local levels for enforcement. The purpose of this hearing is to build a foundation to justify adjusting and moving funds, not add to the Federal deficit, but moving funds from other places.

The Criminal Justice Commission awarded $10 million to local agencies for drug enforcement. What percentage of those were Federal monies, do you know, if any?

Mr. COLLINS. About half.

Senator DECONCINI. Half was Federal money?

Mr. COLLINS. Correct.

Senator DECONCINI. Do you have any idea where you would recoup half of that if in fact these funds were curtailed? Do you think the legislature would come up with the money?

Mr. COLLINS. I can tell you that I really don't believe it would be forthcoming if the Federal Government doesn't come through, for a couple of reasons—several reasons, actually. First of all, it has been mentioned that the counties are operating under an 1980 tax referendum. We don't have the funds at the county level in any county in Arizona. Everyone in Arizona is keenly aware of the definite problems facing the State and the drastic situation there.

I feel that if the Federal Government doesn't stay with us, at least for this year, that's going to be a signal for the Arizona Legislature to also cut. And I believe that would be very drastic, have a very drastic consequence at this stage of the program because, as I alluded to, we really tried to design a program that took the burden off the taxpayers and put it on the bad guys, heavily relying on forfeitures and fine revenues, but we simply haven't got the forces in the field to build those accounts to the point where they can take over at this stage of the game.

Senator DECONCINI. If you lose the Federal participation, you really don't have any alternative source from which you can develop the funds. I think they have to come up—I think that's accurate.

Mr. COLLINS. Three hundred.

Senator DECONCINI. Three hundred million?

Mr. COLLINS. Yes, sir.

Senator DECONCINI. Well, it's a lot of money in any event and the commission has no other alternative except to look to the State Government and Federal participation if it doesn't continue.

Mr. COLLINS. Our resource, the distribution to law enforcement throughout the State uses Federal money to this bill and what the legislature provides in matching funds and that's all.

Senator DECONCINI. Thank you, Mr. Collins, I appreciate that testimony and thank you for being with us this morning.

Mr. Latham, if you could tell us, the Drug Task Force in Coconino County in which your office is involved has received $160,000 from the Criminal Justice Commission. Will this funding provide sufficient resources in terms of law enforcement personnel, prosecutors and jail space, to adequately handle the increase in the drug-related criminal activity that you mentioned to us?

Mr. LATHAM. I don't think it will adequately handle it, Senator, but it's a tremendous help.

Senator DECONCINI. Are you satisfied with the extent of the cooperation that you received today from the federal and state agencies that are involved in this task force?

Mr. LATHAM. Yes, I am. The State has been tremendous and so have the Federal agencies. The United States Customs Service, as a matter of fact, is providing the office space for our unit. And they only have three agencies there, but they're providing a space for twelve people to operate the State, and it has given virtually all their local cooperation enforcement unit to this task force, and the cooperation has been tremendous.

Senator DECONCINI. You have a presentation of a well-run department, Chief, and if you could have more funds than the 160,000, have you thought or have you laid out tentatively in your mind or on paper how much you need to put together what you think is necessary for your community, where the funding might come from, in addition to what you can get from your government funding entity?

Mr. LATHAM. I think we asked for approximately 300,000 for the first start-up in operational cost, and that really would begin to address the prevention program which we're merely supportive of, the D.A.R.E. program. We have several officers in that program now and we virtually take the officers off the street and put them answering calls and putting them in classrooms. For the time period that they're teaching D.A.R.E. though there is some funding, I can't give you an exact dollar amount.

Senator DECONCINI. In the neighborhood of 300,000 or more?

Mr. LATHAM. Yes.

Senator DECONCINI. Those officers that are in the D.A.R.E. program, are they full-time assigned to educational things and that type, or do they work also on other cases?

Mr. LATHAM. They work on other cases that are in the program, and what they do is they just leave their case, and we have them working 445 cases a year and they give a lot of personal time, if that answers your question specifically, that they do in addition.

Senator DECONCINI. In addition, I'm impressed with that program. I take it you are too?

Mr. LATHAM. Absolutely.

Senator DECONCINI. We had a press conference in Washington recently with the chief of police, with the sheriff in northern Virginia, who were there telling us about the program. I was very impressed. Thank you very much, Chief.

Ms. Lindsey, let me ask you a couple of questions about your organization.

Because of the tight budget constraints facing State lawmakers, what is the prospect for your organization receiving any amounts of money from the state?

Ms. LINDSEY. Well, Senator, as you probably know, the State of Arizona has been facing a budget crunch both last year and this year. Our goal as a state organization has been to spread the CASA program on a statewide basis. We have programs in Maricopa, Coconino and La Paz Counties.

Sixty-six per cent of our funding comes from the Federal Government. However, the time limits will be going away soon. Twenty-seven percent is State funding and 7 percent is private funding. We have been trying to encourage the State to accept its responsibility in assisting us, to encourage our basis funding from the State.

We had our budget hearing Friday and I guess it remains to be seen how much we will get from the State, but that is our goal. Sixty percent is Federal now.

Senator DECONCINI. And does that come from more than one source?

Ms. LINDSEY. More than one source, yes. The greatest amount of the funding that we receive is through the Child Abuse Prevention.

Senator DECONCINI. Child abuse.

Ms. LINDSEY. In 1974, however, we also had a Department of Justice grant this year, and this year received a grant which runs so many programs, Justice Assistance Act is no longer money, is no longer available, so we put in a grant for Victims Assistance programs funding and also Criminal Justice Commission Act has a Victim Assistance grant, so we doubled our efforts and put in two requests.

Senator DECONCINI. You rely on—you have an outstanding program. I looked at it and I compliment you on it. I notice you do rely a great deal on volunteers. How many volunteers are presently working for CASA,

Ms. LINDSEY. In the four counties we have, about 120 volunteers. Our La Paz County program is brand-new and we just have a coordinator and no volunteers recruited as yet, but we expect to have probably upwards of 400 to 500 volunteers so we can spread our program on a statewide basis.

Senator DECONCINI. Thank you.

Sheriff Dupnik, I'm very interested in some of the programs you've put in. One grant, which was for a pilot program for drug treatment that you mentioned for inmates. Is this program totally federally funded? And before that, what did you have? Did you have any type of program dealing with drug education or prevention within your direction?

Mr. DUPNIK. Senator, we have had no programs at all because of a lack of resources. Until we got the money from the Justice Department last June we did not have a program.

Senator DECONCINI. And what is the effect of the program? Have you seen less violence among criminals or do you have any statistical success rate of people getting out, or how it is going?

Mr. DUPNIK. Well, we think that the program is going well, but to answer the question in specific terms would be very difficult at this point since it's only been in existence for a few months.

But we've seen some changes in the prisoners themselves. I think that for the first time many of these people have been subjected to self-evaluation, some introspective looks at their behavior. For the first time they've been subjected to some counseling, and we have some attitudinal changes taking place on the part of the prisoners themselves, affecting their behavior in a positive way inside the institution.

Senator DECONCINI. If the Federal funds are not there, do you have any hope of funding from any other source?

Mr. DUPNIK. Well, I think, as Mr. Morrison has pointed out already, the financial problems of the county and financial problems of the State are increasingly acute each year.

As Ms. Lindsey has just pointed out, each year the State has had to come up with additional monies because of a shortfall. Pima County is no different. And Pima County, I should say, is probably in better financial shape than some of the counties who are at the verge of bankruptcy every year. There simply isn't enough money for those kinds of programs available.

Senator DECONCINI. Now, you testified before this Judiciary Committee before and being very frank about the failure of the Federal Government to put up and really participate in the Alliance and along the border.

Do you have any recommendation for us that we ought to put up here on the Federal level to maintain these programs that appear to have some real success possibilities?

Mr. DUPNIK. Well, I think that we ought to do more than talk about it. I think when we make the statement that narcotics poses the single greatest threat to our national security that we ought to be prepared to devote the proportionate share of resources to that kind of a problem. I think that we're talking out of both sides of our mouths, and I'm not talking about you, Senator, because I realize that you have been the leader in sponsoring legislation in getting us the resources, but certainly the administration talks out of both sides of their mouth when they say that narcotics is the single biggest problem that we have and then threatens to veto, and certainly has been telling us for a year that there's not going to be any money for second-year funding. I think that concerns a lot of us.

Senator DECONCINI. Let me ask you one last question, because we're running out of time.

You're still involved as one of the representatives on the Operation Alliance Federal program; is that right?

Mr. DUPNIK. Yes, sir.

Senator DECONCINI. Can you give me, quickly for the record, what your analysis is of that, pro and con, as you see it, Sheriff?

Mr. DUPNIK. Well, I think that we've made tremendous strides, particularly in the area of State, local and Federal cooperation. I think it's at a higher level now than we've ever seen it in the past, and I think that the U.S. Customs Service should be complimented for that. I think that they've taken a leadership role and I think that many of the things that are occurring, not only in our State but other border States that border Mexico, are the direct result of a leadership existing by William Vandenbosch and the U.S. Customs Service. I think that they do an outstanding job.

As a result of all the resources that have been put in, we've seen out reserves virtually triple in the last years, so I think for the standpoint of interdicting, an increase of 300 percent is fairly significant.

From the overall standpoint, I don't think that we've made that big of an impact. I think that more and more narcotics are coming across the border. I think that the fact that the price is down quite a bit, that that's true. And the fact that we still have some serious problems with getting the participation and cooperation of Mexico is of great concern.

I think that the administration hasn't done enough when it comes to that particular issue.

One of the reasons that Operation Alliance is not as successful as it could and should be is because of the total lack of cooperation and participation on the part of Mexico. I'm not suggesting that we need to start imposing sanctions against Mexico, but I think that an aggressive administration or aggressive leadership would indicate that there are a lot of things that Mexico can and would like to do.

I think that there's considerable fear on the part of the average Mexican citizen, and especially on the part of the government, that if they don't bring this problem under control themselves very quickly then this problem is going to control them, much as it has in Colombia and Bolivia and other countries in South America. There's a considerable fear down there and I think that they do want to do something about it, and I think it behooves us to try to work with those people.

I understand the sensitivity of the southern issues involving our mutual border, but I think there are a lot of other areas that could be explored, such as assisting them in the problem of cocaine coming across their own southern borders, and I think that they would be willing to work with us on that problem and I think that they would be receptive to doing more inside their own country with some mutual assistance. But I don't think that we've done enough.

Senator DECONCINI. Thank you very much, Sheriff. Thank you, Ms. Lindsey, and gentlemen, for taking the time to be here.

I think that the record that we've laid will be helpful to us and we thank you for taking the time and resources to participate in these hearings. Thank you.

We're going to take a short break. While we do that, will the second panel please come forward.

[A short recess ensued while Panel 2 was seated. The hearing resumed at 12:00 o'clock.]

Senator DECONCINI. The committee hearing starts with the sheriff from Pinal County, Frank Reyes.

Sheriff Reyes, thank you for being with us. You have done fine work, and if you have a full statement we'll put it in the record. If you could summarize it for us, we'd appreciate it. Thank you.

STATEMENT OF FRANK REYES, PINAL COUNTY SHERIFF

Mr. REYES. Good morning, Senator.

First of all, I'd like to say thank you for the help that you've given us as far as the war against narcotics.

As you know, I represent Pinal County, which is in between the two largest counties in the State of Arizona, Maricopa and Pima. We have the third-largest county populationwise in the State of Arizona and we are small in comparison to the two large counties, but possibly large as far as the other northern counties.

Like everyone else, we have problems in dealing with narcotics. And we have, since February 1987, the Pinal County Narcotics Drug Force has been in operation during this time period, and the task force has worked 332 cases and 216 suspects have been arrested, 95 of those suspects, with the remaining pending warrants. Of these 332 cases, 204 are marijuana and 89 are cocaine. The remaining 39 are other dangerous drug cases. The total is $2,906,379. This includes vehicles or planes, guns, narcotics and cash.

We plan to continue investigating narcotic dealers in the Pinal County—as those dealers and smugglers known to bring narcotics into Pinal County. We also will continue assisting other agencies when requested.

Our funding for the past year has come from the Arizona Criminal Enhancement fund. The Cities of Florence, Coolidge, Eloy and Casa Grande Police Departments as well as Pinal County. We have $60,800 in funding from CJEF. They provide buy money and payments of telephones and side rentals for the police department within Pinal County and through their CJEF funds have provided salaries, vehicles and gasoline.

Since April 1st, 1988, new grant funds totaling $327,000 will be provided for working the type of narcotic cases.

Being one of the smaller counties, anytime there's funding involved, we seem to not get it because of the numbers of our county may not be as much as the larger counties.

There was testimony just a few minutes prior where Sheriff Dupnik made the statement that they're pretty well off as far as the other counties in the law enforcement department are concerned. But what about the smaller counties and smaller police departments? When funding is made available they go by the numbers and seem to give the lesser amount of money to the smaller agencies which is one of the problems that we're experiencing.

Because of the Federal funding we are fortunate to be able to open a new jail to deal with the narcotics and address that as far as—whereas before there was a lack of funds. We show the same problems that everybody does by overcrowding the jail system. Pinal County has one of the oldest jails in the State of Arizona and they probably compare us to stories that we hear from across the border and the jails. And if this Federal funding is not continued, Pinal County as well as those agencies that work within our jurisdiction, and our task force will be hurt. And I would appreciate anything that you can do to continue this funding for us.

Senator DECONCINI. I thank you, Sheriff. Let me go to a couple of questions while I have you here, and then we'll have to move on.

Are you reeceiving Federal funds right now for the jail?

Mr. REYES. Yes, sir, we've started since the 1st of April.

Senator DECONCINI. And how much is that, do you know?

Mr. REYES. I don't have the numbers. I think it's $327——

Senator DECONCINI. $327,000?

Mr. REYES. Yes, sir.

Senator DECONCINI. And you're anticipating receiving that for more than a year, of course?

Mr. REYES. We're hoping for it.

Senator DECONCINI. Quite frankly, if the Federal funds were not available where would you get funding?

Mr. REYES. Quite frankly, the type of operation we have, there's not very much funding around, so we have to work with the resources we have. Pinal County, when it was first established, I guess before my time, they went through the process of building substations and jails in different towns, but because of the lack of funding these buildings have deteriorated and they were never in use other than just day-shift operations, but we have been unable to use them as far as staffing.

Senator DECONCINI. So you can't use these auxiliary jails that you have around the county?

Mr. REYES. With the funding we have to staff we're opening one.

Senator DECONCINI. So to rely on the central jail, if you don't have the funds for that, you really have no jail.

Mr. REYES. That's true, yes, sir.

Senator DECONCINI. That's pretty impressive and what you need to do.

Captain John Pope, would you summarize your statement, please.

STATEMENT OF JOHN POPE, ARIZONA DEPARTMENT OF PUBLIC SAFETY

Mr. POPE. Yes, sir.

First of all, thank you for the opportunity of being here today, and I'd like to thank Chief Latham for some excellent testimony about my program. I appreciate the very favorable comments that people have made so far about our program.

In 1987 we were privileged tc receive a grant for $79,800 from the Bureau of Justice Assistance. And that enable us to establish a statewide D.A.R.E. program here is Arizona. The D.A.R.E. curriculum was adopted from the Los Angeles Police Department and the Los Angeles Unified School District. It's a program that was developed by educators, but what makes it unique among the good programs that are available is the fact that it is taught by uniformed police officers.

The model developed by educators basically has four objectives: first of all, to provide children with adequate information about drugs; secondly, to provide them with the skills to deal with the pressures that set the stage for substance abuse; third the skills to deal with peer pressure, which is considered by most thwarted to be the strongest influence to experiment with drugs; and, fourth, to help the children realize that there are some healthy alternatives to substance abuse.

The First Lady has given use the slogan "Say no." The D.A.R.E. program wholeheartedly concurs with that. We want the children to say no, but the major premise of the program is that children do not possess those skills all on their own at that age when they're confronted with the pressures.

And so what D.A.R.E. attempts to do is to provide them with the skills and the knowledge that they need to resist. It appears from program evaluations across the Nation that our primary odjective of helping children to resist the temptation to experiment with drugs is working.

And there are some other things that have been realized from the group program, too. I would like to mention four very briefly.

First of all, there seems to be a decline in classroom disciplinary problems that are reported by teachers. Secondly, there has been a tremendous, dramatic drop in incidents of school vandalism with the schools that are participating in D.A.R.E. programs. Police chiefs report that there is a higher respect for police officers; not just those that are involved in the D.A.R.E. program but also for all police officers in the community.

Furtunately, the school administrators and teachers report that there's a higher degree of respect for authority in general among the students that have received D.A.R.E.

Here in Arizona, with $79,800 we would not have been able to achieve that without community assistance. We have been able to train 74 police officers to instruct the D.A.R.E. curriculum throughout the state.

As you mentioned earlier in your opening comments, we had $120 we attempted to set our goals to provde the program to 12,000 fifth and sixth graders, but 19,500 children we were able to reach with those Federal funds. We've also, with those Federal funds, taking the initial steps to becoming a regional training center. In the schools during this summer, we're hosting guest instructors from five of our sister States, and so some exciting things are happening for D.A.R.E. programs here in Arizona.

I would like for you to know that while the Department of Public Safety facilitates and coordinates this program, it truly is a cooperative effort here in Arizona. I'm surrounded by people at the table who are involved in this program. The D.A.R.E. program is 32 Federal, State, county and municipal agencies that are all working together to provide this program.

I, of course, am here, like those that are with me at the table, to encourage the continued funding for these kinds of programs because, quite frankly, these communities participating today would not have been available to do this had it not been for this assistance.

And finally, I would hope that the interest in funding regional training centers across the Nation would be considered a priority because of the tremendous demands that are being placed on us. I want to thank you for the opportunity of being here.

Senator DeConcini. Captain, thank you very much, and I'm really impressed with what you have done with the small amount of Federal funds. Have you calculated how much local dollars have been paid into this?

Mr. Pope. We are encouraging—I omitted saying that we encourage communities to consider the assistance that they are receiving as a first-year source to receive money to get the program going. And we're seeing in the second year communities that are sending us checks for notebooks, some that are saying thank you very much, but we don't really need the additional assistance this year.

Senator DeConcini. We can do it ourselves?

Mr. Pope. However, there are so many new communities that we're trying to get started.

Senator DeConcini. Do you have any idea—what do you think the capacity of D.A.R.E. in Arizona is that you can reach?

Mr. Pope. I feel——

Senator DeConcini. Can you double it next year?

Mr. Pope. I think we're going to more than double. We trained at our first Arizona training seminar, we trained 50 officers. We now have 150 requests pending.

Senator DeConcini. That you do for training?

Mr. Pope. Yes, sir.

Senator DeConcini. How long is that training?

Mr. Pope. That's an intensive 80-hour training course.

Senator DeConcini. Eighty hours. Where is it done?

Mr. Pope. We do it at Mesa, and we have a contract with Milstead.

Senator DeConcini. Thank you for what you're doing. I'm very impressed with that program and compliment you for your outstanding leadership in it. And please tell Mr. Milstead that this Senator recognizes some of the priorities that you all must have, and we certainly mean to thank the Department of Public Safety for its commitment to this program.

[Prepared statement follows:]

PROJECT D.A.R.E.
[DRUG ABUSE RESISTANCE EDUCATION]

Prepared by: Captain John F. Pope
Arizona Department of Public Safety
PROJECT D.A.R.E. Statewide Coordinator

The Drug Abuse Resistance Education curriculum (PROJECT D.A.R.E.) originated in Los Angeles, California. Chief Daryl Gates, Chief of the Los Angeles Police Department, realized that traditional law enforcement efforts against substance abuse-related problems could not succeed alone. Chief Gates wanted to add a new weapon to his arsenal in the war on drugs: *PREVENTION*. Convinced that prevention would be most effective with young children, Chief Gates approached Dr. Harry Handler, Superintendent of the Los Angeles Unified School District, with a proposal that they work together in a prevention effort which targeted young children.

PROJECT D.A.R.E. is one of several excellent prevention models. Its uniqueness lies in the fact that it was developed by educators but is taught by uniformed police officers. A police officer enjoys instant credibility with elementary school children, for the officer is deemed an authority on drugs, an idea derived from an association developed on television.

The use of uniformed police officers in the school setting is nothing new. The police have been in the classroom for years.

However, PROJECT D.A.R.E. expands the *role* of the officer to teacher rather than guest. Additionally, the *approach* taken by the officer differs greatly from that previously taken.

The former approach consisted of information about drugs and their effects. Scare tactics were often used to dissuade experimentation. Current research indicates that information and scare tactics alone are ineffective.

The "Just *Say No*" slogan has become a popular one. However, PROJECT D.A.R.E. is based on the premise that children lack the knowledge and skills to accomplish saying no on their own. Rather, they must be taught resistance skills and provided the opportunity to practice those skills in the structured environment of the classroom.

The curriculum attempts to provide children with:

1. *Accurate information about drugs and alcohol;*
2. *Skills to deal with the stresses and pressures that set the stage for substance abuse;*
3. *Skills to deal with peer pressure;*
4. *A realization of positive alternatives to substance use and abuse.*

The program begins with a series of visitations to the kindergarten classroom. Those visitations continue through the fourth grade. The main thrust of the program (or the *core curriculum*) takes place in the fifth or sixth grade.

To determine the grade level for the core curriculum, it had to be determined at what point the children reach the level of cognitive development which enabled them to grasp the information and the skills to be learned, and yet reach them prior to the time they endure the stresses and pressures that lead to experimentation and use. Research showed that the core curriculum would be most appropriate for the upper elementary age.

The core curriculum is one semester in length. The officer visits the classroom once each week to deliver a structured lesson. Additionally, the officer spends time with the children outside of the classroom. This informal interaction helps build rapport between the officer and the children.

There is a junior high curriculum which reinforces the core curriculum. At the present time, a high school curriculum is being developed.

Program evaluations are regularly conducted. Some evaluation processes have revealed surprising results. Not only does D.A.R.E. enhance the children's knowledge, attitudes and skills, but there have been reported reductions in in-classroom disciplinary problems and instances of vandalism. Not only has there been an increase in the respect for police officer, but an increase in respect for all authority in general.

PROJECT D.A.R.E. was initiated in Arizona by the Mesa Police Department. During that same year, work was begun to expand the program to a statewide level.

Several law enforcement agencies agreed to provide officers to be trained as a core staff. Nine officers received training in March, 1987, to become not only certified officers to provide classroom instruction to students, but also to become trainers of other officers.

Fifty officers were trained in the first Arizona training seminar in July 1987. Those officers represented 32 police agencies at the federal, state, county and municipal levels. Fifteen of those officers are now certified training officers. During the first year, over 19,500 fifth and sixth grade students in 120 schools throughout the state received the core curriculum! These numbers will dramatically increase during the next year. The success of Arizona's D.A.R.E. program can be attributed to three factors:

1) The intrinsic value of the D.A.R.E. curriculum;

2) The dedication of the many people involved in the program..., and

3) The support received in the form of federal funds. Seventy-four officers have been trained and 19,500 fifth and sixth grade students have received the program -- all from a $79,800 grant from the Department of Justice in 1987.

The fact of the matter is that none of that success would have been realized without support received from the Department of Justice.

The need for continued support for D.A.R.E. programs exists in that many new communities are looking for the same initial support sought by Arizona. Additionally, existing programs have need for support in that they have taken on the obligation of helping others through training.

Presently, Arizona D.A.R.E. is attempting to help surrounding states by providing officer training. (During the coming summer months, Arizona will be hosting officers from Wyoming, Florida, New Mexico, Colorado and Texas.)

Because many of the officers are from smaller communities with very limited finances, Arizona does not charge for training officers. Indeed, many of the officers trained could not have received training if the actual expense of training had been passed on. More importantly, the students they have reached would not have had the D.A.R.E. program had they not received the training.

Arizona extends sincere appreciation to those at the federal level for their support in the form of funding, and encourages continued support for this important venture.

Senator **DeConcini**. Chief Reina, we're pleased to have you with us today. If you'd like to summarize your statement, your full statement will be put in the record.

STATEMENT OF EDWARD REINA, CHIEF OF POLICE, SALT RIVER, PIMA-MARICOPA INDIAN COMMUNITY

Mr. **Reina**. Senator DeConcini, thank you for the opportunity to present information to you this morning.

I am Edward Reina, chief of police of Salt River, Pima, Maricopa Indian Community. I also serve in the capacity of chairman for the Intertribal Council of Arizona Juvenile Justice working group.

With me today is Ned Norris, tribal judge for the Tohono O'odham Nation. We are representing the concerns of Arizona tribes regarding the Juvenile Justice and Delinquency Prevention Act.

In 1986 a national task force on Juvenile Justice for Native Americans and Alaskan Natives was established to look closely at the act and to make recommendations for improvement. Judge Norris was the chairman of the task force. Members of the task force met throughout the year and their efforts culminated in a report regarding the reauthorization of the Juvenile Justice and Delinquency Prevention Act. I have brought copies of the report with me and request that the report be entered in its entirety into today's hearing record.

Senator **DeConcini**. Without objection we will put it in the record.

Mr. **Reina**. Native American and Alaskan Native governments have identified the well-being of their children as a priority concern. Congressional recognition of this priority has resulted in legislation such as the Indian Child Welfare Act, Juvenile Justice and Delinquency Prevention Act, Child Abuse Prevention and Treatment Act and, most recently, the Omnibus Drug Enforcement, Education and Control Act, which includes the Indian Alcohol and Substance Prevention and Treatment Act, targeting services to Indian youth.

The congressional findings of the previously-cited acts include the following: First, and most importantly, that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children;

Secondly, that the Federal Government has a historic relationship and unique legal and moral responsibility to Indian tribes and their members, and that included in this responsibility is the treaty and statutory obligations to assist the tribes in meeting the health and social needs of their members.

These findings support the congressional recognition of the unique relationship existing between the Native American/Alaska Natives and the Federal Government. The findings also promote the development of a policy to address the needs of Indian families and children to make services available for Indian youth.

The demographic profile of the Indian population is one that is very young. The median age of American Indians, according to the 1980 census, is 19 years. Many tribes have a younger median age. For example, the Navajo meidan age is 16.2 and the Oglala Sioux median age is 16.7. The significance of this is that, within Indian country, juvenile crime rates are high and the adequacy of the juvenile justice response system is gravely disproportionate. Alcohol-related crime is four to give times the national rate. Serious crimes against persons is three times higher than the national rate. Law enforcement is rendered ineffective regarding juvenile crime, largely due to the inability of the Federal courts to process cases. This problem is compounded by the lack of adequate alternatives to incarceration at the Federal, State and local levels.

The availability of fiscal resources for Indian communities is largely dependent on Federal program assistance, most of which lacks any coordination at the Federal and local level and focuses on adult crime.

Services for youth are fragmented and governed by the rules of funding agencies, which often prevent local coordination.

The Juvenile Justice and Delinquency Prevention Act was specifically developed to address nationwide inadequacies and injustices occurring in juvenile justice systems. The goal of the act was to improve the quality of juvenile justice and at the same time increase the capacity of state and local governments to operate effective juvenile justice rehabilitation and delinquency prevention programs.

According to a memorandum prepared by the Juvenile Justice Legal Advocacy project on the "legal issues involved in secure detention of Indian children on reservations," the legislative history of the JJDP Act indicates that it was intended to apply to and be utilized by Indian tribes. Tribes agree and support the intent of the act. However, through its implementation, the act has not been responsive to the needs of tribes.

Senator DeConcini and committee members, we request your assistance in assuring that American Indian and Alaskan Native juvenile justice needs be recognized by the act and that funds be made available to meet those needs. Thank you for your time.

Senator DECONCINI. Thank you, Chief. Is your reservation—or do you know, of the D.A.R.E. program that we talked about, the way it operates, if it would operate on any reservation?

Mr. REINA. We are proud to say that we are the first tribe to have the D.A.R.E. program.

Senator DECONCINI. And some of your officers?

Mr. REINA. I have one officer.

Senator DECONCINI. How does it work?

Mr. REINA. Excellent.

Senator DECONCINI. Since enactment of—changing the subject a little bit—the Justice program, what portions of funding have been appropriated to Indian-related programs; would you know, by any chance? If you don't know, I can find out, but I thought you might.

Mr. REINA. Since the initiation in 1978, we did, through our task force, come up, it's only about one per cent of the total appropriation since 1978.

Senator DECONCINI. That's exceptionally small.

Mr. REINA. Right.

Senator DECONCINI. I suspect you'd like more funds designated for American Indians and Alaska Native People?

Mr. REINA. Yes.

Senator DECONCINI. So really what you're saying——

Mr. **Reina**. For various reasons the system presently in place doesn't address the unique needs of the Indian countries.

Senator **DeConcini**. And you need this direct channel of funding as far as you're concerned?

Mr. **Reina**. Yes.

Senator **DeConcini**. And do you get funds from the system now?

Mr. **Reina**. We do in the State of Arizona get about 30,000 for the 20 tribes in the State.

Senator **DeConcini**. That's all?

Mr. **Reina**. Yes.

Senator **DeConcini**. And where does that come from, out of the Commission?

Mr. **Reina**. Yes, through the State advisory group; they appropriate it. We're identified as Region 7 as part of the county governments and we get a portion of that, which is 30,000. We've been able to distribute it to various programs.

Senator **DeConcini**. Minimum, obviously doesn't go very far, $30,000?

Mr. **Reina**. No, sir.

Senator **DeConcini**. That's what you got for this year, the year we're going into?

Mr. **Reina**. Have been for the past.

Senator **DeConcini**. How much have you asked for, do you know?

Mr. **Reina**. We've asked, when we ask in the application we do, we renew the application, we always have in excess of 60 to $100,000 worth of requests.

Senator **DeConcini**. Requests? But you've never been able to get that?

Mr. **Reina**. Right.

Senator **DeConcini**. Thank you.

[Prepared statement and report follows:]

ORAL TESTIMONY BEFORE
THE SENATE COMMITTEE ON THE JUDICIARY
April 25, 1988
Tucson, Arizona

Honorable committee members, Senator DeConcini, thank you for the opportunity to present information to you this morning. My name is Edward Reina and I am the Chief of Police for the Salt River Pima-Maricopa Indian Community. I also serve in the capacity of Chairman for the Inter Tribal Council of Arizona Juvenile Justice Working Group. With me today is Ned Norris, tribal judge for the Tohono O'odham Nation. We are representing the concerns of Arizona tribes regarding the Juvenile Justice and Delinquency Prevention Act.

In 1986, a National Task Force on Juvenile Justice for Native Americans and Alaskan Natives was established to look closely at the Act and to make recommendations for improvement. Judge Norris was the Chairman of the Task Force. Members of the Task Force met throughout the year and their efforts culminated in a report regarding the reauthorization of the Juvenile Justice and Delinquency Prevention Act. I have brought copies of the report with me and request that the report be entered in its entirety into today's hearing record.

Native American and Alaskan NAtive governments have identified the well-being of their children as a priority concern. Congressional recognition of this priority has resulted in legislation, such as the Indian Child Welfare Act, Juvenile Justice and Delinquency Prevention Act, Child Abuse Prevention and Treatment Act and most recently, the Omnibus Drug

Enforcement, Education and Control Act, which includes the Indian Alcohol and Substance Prevention and Treatment Act, targeting services to Indian youths. The Congressional findings of the previously cited Acts include the following:

> First and most importantly, that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children;
>
> Secondly, that the federal government has a historical relationship and unique legal and moral responsibility to Indian tribes and their members, and;
>
> That included in this responsibility is the treaty and statutory obligation to assist the Indian tribes in meeting the health and social needs of their members;

These findings support the Congressional recognition of the unique relationship existing between the Native American/Alaska Natives and the federal government. The findings also prompted the development of policy to address the needs of Indian families and children to make services available for Indian youth.

The demographic profile of the Indian population is one that is very young. The median age of American Indian according to the 1980 census is 19 years. Many tribes have a younger median age. For example the Navajo median age is 16.2 and the Oglala Sioux median age is 16.7. The significance of this is that, within Indian country, juvenile crime rates are high and the adequacy of the juvenile justice response system are gravely disproportionate. Alcohol-related crime is four to five times the national rate. Serious crimes against persons is three times higher than the national rate. Law enforcement is rendered ineffective regarding juvenile crime, largely due to the inability of the federal courts to process cases. This problem is compounded by the lack of adequate alternatives to incarceration at the federal, state and local levels. The availability of fiscal resources for Indian communities is largely dependent on federal program assistance, most of which lacks any coordination at the federal and local level and focuses on adult crime. Services for youth are fragmented and governed by the rules of funding agencies which often prevent local coordination.

The Juvenile Justice and Delinquency Prevention Act was specifically developed to address nationwide inadequacies and injustices occurring in juvenile justice systems. The goal of the Act was to improve the quality of juvenile justice, and, at the same time, increase the capacity of state and local government to operate effective juvenile justice, rehabilitation and delinquency prevention programs.

According to a memorandum prepared by the Juvenile Justice Legal Advocacy project on the "Legal Issues Involved in Secure Detention of Indian Children on Reservations," the legislative history of the JJDP Act indicates that it was intended to apply to and be utilized by Indian tribes. Tribes agree and support the intent of the Act. However, through its implementation, the Act has not been responsive to the needs of tribes.

Senator DeConcini and committee members, we request your assistance in assuring that American Indian and Alaskan Native juvenile justice needs be recognized by the Act and that funds be made available to meet those needs.

Thank you for your time. We would be glad to answer any questions you may have.

NATIONAL TASK FORCE ON JUVENILE JUSTICE FOR NATIVE AMERICANS AND ALASKA NATIVES

A Report to Congress
with Recommendations
Regarding the Reauthorization
of the JJDP Act

SEPTEMBER 1987

NATIONAL TASK FORCE ON JUVENILE JUSTICE FOR NATIVE AMERICANS AND ALASKA NATIVES

The National Task Force on Juvenile Justice for Native Americans and Alaska Natives is an ad hoc committee of State Juvenile Justice Advisory Group members appointed by the State Advisory Group in their state. Following is a list of Task Force members and participants responsible for the development of this report.

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For further information on this report, please contact:
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EXECUTIVE SUMMARY

The intent of the Juvenile Justice and Delinquency Prevention Act is to specifically address nationwide inadequacies and injustices occurring in the juvenile justice system. The Act was also developed to increase the capacity of state and local rehabilitation and delinquency prevention programs. The legislative history indicates that the Act is intended to apply to and/or be utilized by Native American/Alaska Native tribal governments.

The Juvenile Justice and Delinquency Prevention Act has excluded tribal populations through various methods including: the absence of enabling legislative provisions, formula funds distribution for states, de minimus exceptions, exclusion of Indian concerns from state plans, lack of flexibility by funding agencies, lack of coordination among various state and federal agencies, and creation of unfair competition with state and national priorities.

The recommendations that are made in made in this report recognize the Native American juvenile justice needs. If these recommendations are adopted, tribes will be able to access needed resources and, most importantly, a process will be established which will encourage interaction at the tribal, state and federal levels in providing services to Native American/Alaska Native juveniles.

BACKGROUND
Juvenile Justice and Delinquency Prevention Act of 1974

INTRODUCTION

The intent of this statement is to outline needs and services available to Indian tribes under the Juvenile Justice and Delinquency Prevention Act, discuss the ability of tribes to access those services, identify barriers preventing tribes from accessing juvenile justice funds and offer recommendations to enable tribal participation.

Native American and Alaska Native governments have identified the well-being of their children as a priority concern. Congressional recognition of this priority has resulted in legislation, such as the Indian Child Welfare Act, Juvenile Justice and Delinquency Prevention (JJDP) Act, Child Abuse Prevention and Treatment Act and, most recently, the Omnibus Drug Enforcement, Education and Control Act, which includes the Indian Alcohol and Substance Prevention and Treatment Act, targeting services to Indian youths. The Congressional findings of the aforementioned Acts has found the following:

- that the federal government has an historical relationship and unique legal and moral responsibility to Indian tribes and their members (Indian Alcohol and Substance Abuse Prevention and Treatment Act-1986);
- that included in this responsibility is the treaty and statutory obligation to assist the Indian tribes in meeting the health and social needs of their members (Indian Alcohol and Substance Abuse Prevention and Treatment Act-1986);
- that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children...(Indian Child Welfare Act).

These findings support the Congressional recognition of the unique relationship existing between the Native American/Alaska Natives and the federal government. The findings also prompted the development of policy to address the needs of Indian families and children to make services available for Indian youth.

The JJDP Act was specifically developed to address nationwide inadequacies and injustices occurring in juvenile justice systems. The goal of the Act was to improve the quality of juvenile justice and, at the same time, increase the capacity of state and local governments to operate effective juvenile justice, rehabilitation and delinquency prevention programs.

According to a memorandum prepared by the Juvenile Justice Legal Advocacy project on the "Legal Issues Involved in Secure Detention of Indian Children on Reservations," the legislative history of the JJDP Act indicates that it was intended to apply to and be utilized by Indian tribes. Tribes agree and support the intent of the Act. However, through its implementation, the Act has not been responsive to the needs of tribes.

THE PROBLEM: A NATIONAL PERSPECTIVE

The JJDP Act has been ineffective in serving the needs of America's indigenous populations of Native American and Alaska Natives. While the reasons for this failure are many and complex, there are a few basic issues which help to describe how the Act has managed, perhaps unintentionally, but effectively, to exclude an entire population of children from the benefits of this federal law.

- **Legislative Provisions:** While the Act includes special wording to recognize conditions peculiar to the Pacific Islands and Trust Territories, it fails to recognize the unique historical government-to-government relationship between the tribes and the federal government. The Act should include specific provisions which would allow for direct funding to tribal governments.

- **Formula Funds Distribution:** Funds are distributed on the basis of a minimum allocation to each participating state with the balance distributed according to a per capita representation of juveniles. This distribution method fails to recognize that, very often, states with the smallest populations (rural America) have the most difficulty complying with the JJDP Act mandates. It is important to note that major Native American and Alaska Native populations are likewise concentrated in these rural states.

- **De Minimus Exceptions:** By an opinion of the U. S. Attorney General, participating states are permitted, for purposes of measuring compliance, to except (i.e., "not count") violations of the JJDP Act which occur on federal lands falling under the exclusive jurisdiction of a tribal government. Some of the compliance areas include sight and sound separation, deinstitutionalization of status offenders, jail removal, and monitoring of facilities.

The following three issues, individually and in combination, service to discourage and/or prevent the participation of the Native American/Alaska Native populations in the JJDP Act.

- **State Plans Do Not Address Native American/Alaska Native Concerns:** As a result of relatively small and geographically dispersed Native American/Alaska Native populations in each state, and the absence of mandated state accountability for juvenile justice problems on lands under tribal jurisdictions, there is no monetary or legal incentive for states to include Indian populations as a priority in the annual planning process.

- **Unfair Competition With State Priorities:** The goal of the JJDP formula grant program is to assure equitable and objective distribution of funds. If an Indian community's only access to JJDP formula grant funds is through direct competition with program applicants addressing issues for which the state is held accountable, it is evident that low or "NO" priority will be attached to the applications submitted by Indian tribes.

- **Resorting to Federal Discretionary Monies and Competition With National Priorities:** Indian communities denied access to state formula funds are still eligible to apply directly to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) for discretionary funds under the JJDP Special Emphasis Program. This places the applicant in direct competition with the national priorities established annually by the OJJDP Administrator. While Indian communities have sometimes been successful in this effort, the result, in effect, is little more than tokenism and serves to perpetuate the illusion that Indians are being helped. The true result, however, is a continued absence of comprehensive solutions to Indian juvenile justice problems.

PROBLEM SUMMARY

Within Indian country, juvenile crime rates and the adequacy of the juvenile justice response system are gravely disproportionate. Alcohol-related crime is four to five times the national rate. Serious crime against persons is three times higher than the national rate. Law enforcement is rendered ineffective regarding juvenile crime, largely due to the inability of the federal courts to process cases. This problem is compounded by the lack of adequate alternatives to incarceration at the federal, state and local levels. The availability of fiscal resources for Indian communities is largely dependent on federal program assistance, most of which lacks any coordination at the federal and local level and focuses on adult crime. Services for youth are fragmented and governed by the rules of funding agencies which often prevent local coordination.

Among the various federal grant-in-aide programs available to Indian communities, the JJDP program excludes Indians through the actual implementation of the Act. While states receive their formula allocations on a juvenile per capita basis, which includes Indian children, less than one percent of JJDP funds (combining formula and special emphasis funds) between the years of 1974-1987, have been appropriated and directed toward Indian programs.

Not only are funds unavailable for tribal governments to develop programs that would address their juvenile population needs, violations of the JJDP Act on lands under tribal jurisdiction are excluded from measures of state compliance. Through broad interpretation of the de minimus exceptions clause, many states do not count Indian juveniles held in detention facilities in towns located on the border of Indian lands. Although the clause specifically limits exceptions for violations of the Act to federal lands falling under the jurisdiction of tribal governments, cases have been noted where border town facilities are not in compliance with the Act when Indian juveniles become part of their system. Moreover, this non-compliance is not documented or corrected.

POLICY ISSUES/DISCUSSION AREAS

The following issues are of major concern to Native American and Alaska Natives. Governmental entities and funding agencies need to consider these issues when interacting with Native American and Alaska Native governments.

- **Jurisdiction:** Native American and Alaska Natives are citizens of their tribe, state and the U. S. and as such, are entitled to full rights and services granted other citizens. Criminal jurisdiction within the exterior boundaries of a reservation varies from state to state and often from reservation to reservation. For tribes in states that did not apply for criminal jurisdiction, and have not retroceded, the state may have concurrent criminal jurisdiction over on-reservation juveniles.

Clearly, the coordination of tribal, federal and state responses within this jurisdictional framework is difficult and at best, sporadic. In some areas, intergovernmental agreements are being examined as possible vehicles for the provision of services without jeopardizing tribal sovereignty and appropriate jurisdiction. However, unless the states are committed to providing services to Native American/Alaska Native populations, access to state services is limited.

- **Improved Coordination of Services Within and Among State and Federal Agencies:** Services provided by the state and federal government are fragmented and are not able to meet the needs of tribes. The fragmentation occurs when agencies view their purposes in a limited manner (i.e., only health, only juvenile justice, or only social services, as opposed to all encompassing human services).

- **Lack of Flexibility by Funding Agencies:** State and federal agencies overseeing the distribution of funds have programmatic and service delivery requirements that are frequently unrealistic and developed for uniform application at the local and state levels. These requirements do not adequately address the local juvenile justice problems on tribal lands. There is a need for tribal-specific innovations that address tribal problems and needs from a local perspective.

RECOMMENDATIONS

It is recommended that the following items be included for consideration in the 1988 JJDP Act reauthorization process:

Recommendation I

That no less than 7 percent of the annual JJDP appropriation, or $5 million, whichever is greater, in special emphasis funds shall be dedicated to achieving compliance and otherwise promoting juvenile justice system improvements for Indian communities.

Recommendation II

a. That tribal participation be voluntary and that awards shall be made directly to tribes by the Administrator of the Office of Juvenile Justice and Delinquency Prevention on a formula basis. The formula will establish a minimum allocaton per tribe. The balance of any existing funds should be made available on an objective need basis. Any funds not applied for will be placed in a Native American/Alaska Native Discretionary Fund and...

b. That monies under the Native American/Alaska Native Discretionary fund shall be made available to Indian communities on a one-year discretionary grant basis. Discretionary grants should be awarded through a peer review process. The review panel should be comprised of no less than 50 percent Native American or Alaska Natives.

Recommendation III

That the Native American/Alaska Native populations shall be included in the participating states' annual plan, program priorities and juvenile crime analysis sections. This would allow tribes to be eligible to compete for state formula grant funds. Results can be measured through the equitable distribution of funds requirement.

Recommendation IV

That an ongoing program of technical assistance to Indian communities be established and administered by the Office of Juvenile Justice.

Recommendation V

That the Administrator be required to address Indian programming as part of the concentration of federal effort.

Recommendation VI

That participating formula grants states be required to include the improvement of intergovernmental relationships between the state and tribes as part of the planning process.

Recommendation VII

That technical amendments to Section 102 (a), (5) and (6) and Section 102 (b), (4) of the Act be adopted to ensure that interagency recognition of needs and services for Indian juvenile justice is provided.

Senator DeConcini. We'll go to Ms. Kris Bell, Arizona Department of Health Services. Thank you for being with us.

If you'll summarize your statement, we'll put it into the record.

STATEMENT OF KRIS BELL, ARIZONA DEPARTMENT OF HEALTH SERVICES

Ms. Bell. My name is Kristine Bell and I'm the program representative of the State of Arizona Department of Health Services. My specialty is in the area of drug and alcohol abuse prevention services.

The Department of Health Services is the designated single State agency in Arizona for the distribution of State and Federal funds for alcohol/drug abuse and mental health treatment. Our office is administered by a variety of State and Federal funds. Most of our State funds come from our Senate, State appropriation, and a small portion of Criminal Justice Enhancement funds, all of which we call "find dollars," which are reallocated to community programs. We also receive funds from a surcharge on marriage licenses and divorce decrees that are used to support domestic violence shelters, which are a major source of Federal funds. And also the alcohol/drug abuse and mental health block grant and supplemental ADTR and rehab grab.

We have heard a lot this morning about the impact of the criminal justice system and the importance of the criminal justice partnership. I appreciate the opportunity to take a little bit of time this morning to talk about the impact that increased prosecution interdiction has on our justice. We know that upwards of 62 percent of all the youth age violators in the Department of Corrections facilities have chronic, severe chemical dependency problems. We also know that 52 percent of all the violent crimes in Arizona are committed by juveniles.

A lot of the statistics this morning had to do with the poundage and tonnage of the substances that have been confiscated in Arizona. I would like to spend just a couple of minutes trying to put some perspective on other types of statistics.

This year in September about 58,000 children entered kindergarten in Arizona and they represent the graduating class of the year 2000. Those are the young people that will kind of lead us, or our State, into the 21st century.

Of those 58,000, 1,200 will attempt to take their own lives by the time they reach the twelfth grade; 90 of them will succeed. 9,700 will experience emotional or substance abuse problems severe enough to require on-going intensive treatment.

8,200 of those Class of 2000 in kindergarten will drop out by the tenth grade. 13,000 of them will drink heavily by the time they reach the age of twelve. Drinking heavily is two drinks a day every day, and 3,500 of them will have children themselves before they're age 18.

Of those 3,500, 1,000 will have children too by the time they're age 18.

We know for a fact there's a direct link between criminal activity and drug abuse. We know that all of these children at risk can be helped, and fortunately 20 percent of funds that my department administered come from the Federal Government in the form of our block grant and our ADTR grant. We've been particularly fortunate in Arizona over the last 2 years to have additional Federal funding coming in through the form of alcohol abuse/prevention grants and discretionary funds to the Governor's office.

I would like to point out also that the discretionary funds that the Governor's office receives under the grant also helps communities to serve in the D.A.R.E. program. And interestingly enough, the 31 programs that we provide under those programs are less than $10,000 apiece. Those programs will reach approximately 2,000 children over the next 18 months with the same $10,000 it costs the State to keep one child in a juvenile facility for a year.

Senator, I want to thank you for your continued support.

Senator DECONCINI. Ms. Bell, thank you very much.

Regarding the D.A.R.E. program, have you had any analysis of the program? What's your feeling about it?

Ms. BELL. I have nothing but the utmost praise for the program, Senator. I work very closely with many of the schools.

Senator DECONCINI. Thank you. And the Omnibus Drug Bill which was introduced last month, I and some 70 Senators know, Ms. Bell, will increase more treatment and rehabilitation funding for the fiscal year 1989, and the increased total, which is about $500 million, because we believe it's a critical area in the battle against drug abuse. We consistently hear stories of waiting lists of three to 6 months for individuals seeking treatment because of the lack of facilities.

How much did the State of Arizona receive last year in alcohol and drug abuse funds, and do you know how much will you receive this year in Federal funds?

Ms. BELL. Our total block grant from the Federal Government is a little over $9 million; of that, 4½ million is for substance abuse, and the remainder goes to the mental health programming, in addition to ADTR 1.3 million, and ADTR money is used exclusively for adolescent children.

Senator DECONCINI. Is the State required to match the Federal funds?

Ms. BELL. No.

Senator DCONCINI. Whatever you want to or can put in?

Ms. BELL. Right.

Senator DECONCINI. Where does the State of Arizona rank on the national scale in the amount of funds spent on alcohol and drug abuse programs, do you know?

Ms. BELL. Dead last, fifty-second.

Senator DECONCINI. Fifty-second?

Ms. BELL. That includes the District of Columbia.

Senator DECONCINI. Has that always been the case?

Ms. BELL. We've been in the bottom third.

Senator DECONCINI. For how long?

Ms. BELL. Since the Department of Health Services was designated as the single State agency. We've been ranked forty-second for 4 years and we have had a steady decline since. That comes to about $12 per capita.

Senator DECONCINI. Well, thank you. I know you're very concerned about that, as we all are. We have to do something in this

State as well as on the Federal level to change that. Maybe things will get better.

Thank you very much for being with us and the testimony is very helpful.

[Prepared statement follows:]

Testimony to the U.S. Senate
Judiciary Committee
"Drug Abuse Treatment and Prevention Services
in Arizona - A Public Sector Perspective"
April 25, 1988
Tucson, Arizona

Submitted by: Kristine Bell
Program Representative
Arizona Department of Health Services

The following testimony to the Senate Judiciary Committee will focus on a description of the current publicly - supported alcohol and drug abuse treatment/prevention system in Arizona. Specifically, the testimony will address the state funding mechanism, recent social indicators of youth-related behavioral health problems, program initiatives supported by State and Federal dollars, initiatives implemented in the past 18 months, and priorities for substance abuse treatment and prevention services in the future.

I. State Funding Mechanism

The Division of Behavioral Health Services of the Arizona Department of Health Services as the designated Single State Agency has responsibility for alcohol abuse, drug abuse, and mental health services. The Division plans for, evaluates, regulates and provides behavioral health services, either directly or through contract, throughout Arizona. Services are provided directly by the Arizona State Hospital in Phoenix, the state's only public psychiatric hospital, and by the Southern Arizona Mental Health Center in Tucson, the only state-operated community mental health center. The Office of Community Behavioral Health Services constitutes the remainder of the Division.

The Office of Community Behavioral Health Services (OCBHS) distributes State and Federal funds through a contracting system with local private non-profit agencies for a comprehensive array drug, alcohol and mental health services. Contracts are awarded based on criteria in a Request For Proposal (RFP) that includes assurances for compliance with applicable State and Federal funding requirements. In addition, contractors are required to match state funds on a 50:50 basis.

A variety of State and Federal funds are administered by the Division of Behavioral Health. Sources of state dollars for alcohol drug abuse and mental health services include: 1) annual state appropriations for behavioral health services, 2) surcharges for marriage licenses and divorce decrees allocated for domestic violence shelters, and 3) a percentage of fines collected by county courts for alcohol and drug violations. The primary sources of federal funds for distribution to community programs include the Alcohol, Drug Abuse and Mental Health Block Grant, and the Alcohol and Drug Treatment and Rehabilitation Grant (ADTR). The Division also receives several small federal grants for provider training, support for family violence shelters, treatment for homeless drug users, and special assistance for programs treating intravenous drug users at risk for AIDS. Exhibit A (attached) illustrates the total funds by source expended during fiscal year 1986-87 by the Division of Behavioral Health Services for community-based treatment and prevention.

II. Indicators of Behavioral Health Problems

In September of 1987 approximately 58,000 Arizona children entered kindergarten. These children represent the high school graduating class of the year 2,000. They will become the young adults who will lead our society into the twenty-first century. However, without immediate and continuing attention to the needs of these children and their families, the likelihood of their becoming physically and emotionally equipped to succeed in life is subject to doubt, when one considers the following current statistical trends. Of the 58,000 Arizona children in the Class of 2,000...

- 1,200 will attempt to take their own lives; 90 will end their own lives by the twelfth grade.
- 9,700 will experience emotional or substance abuse problems severe enough to require treatment.
- 8,200 will drop out of school.
- 13,000 will be drinking heavily (that is, at least two drinks every day) before they reach age 25.
- 3,500 will have children while they are still children themselves.

Not surprisingly, the link between the risk factors mentioned above and juvenile crime is clear. In 1985, 52% of the violent crimes reported to law enforcement agencies were committed by juveniles. In addition, the Arizona Department of Corrections reports that at least two-thirds of all young people in their facilities have serious emotional or chemical dependency problems.

III. Current Initiatives

The significant increase in national and state level attention to problems associated with alcohol and drug use/abuse, particularly among adolescents and young adults, has created a need for the Division of Behavioral Health Services to examine the current and future roles and responsibilities of the Single State Agency with regards to leadership, coordination, policy direction, technical assistance and program development. The following is a description of the Division efforts to address those prevention program issues.

A. Effective January 1, 1988, all community-based programs must comply with prescribed Policies and Procedures and Program Standards to assure the provision appropriate and needed prevention services. In addition, the Department of Health Services has adopted recommendations set forth in a Position Paper on Prevention (see Exhibit B, attached), and has widely disseminated those recommendations to the field.

B. The availability of the federal Alcohol and Drug Treatment and Rehabilitation Grant has resulted in a significant increase in both prevention and treatment services for youth and adolescents statewide. Consistent with the Divisions priority of expanding accessibility of services to the youth/adolescent population, a total of 16 new residential beds for adolescent substance abuse treatment were established during the current fiscal year, at a cost of $246,000, or 18.8% of the total $1,310,000 in ADTR funds Arizona received for FY 87-88.

In addition to expanded residential treatment capabilities, 50% of the ADTR funds, or $656,250, have been allocated to substance abuse services for youth and adolescents, of which $393,850 (30%) is used to support prevention activities.

C. Arizona has benefited significantly from other recent federal grant programs, specifically the High Risk Youth Demonstration Program of the Office of Substance Abuse Prevention, and the Drug-Free Schools and Communities Act funds awarded to the Governor's Office. Our state was indeed fortunate that six projects were awarded funds for prevention demonstration efforts over the next three years. The six OSAP grantees in Arizona represent a broad variety of geographic areas, high risk youth populations and prevention activities designed to improve present knowledge in the field regarding effective substance abuse programs.

During FY-88 the Governor's Office on Substance Abuse received $605,432 under the Drug-Free Schools and Communities Act to support community-based substance abuse prevention efforts statewide. To date a total of thirty-one local prevention programs have received funding through a competitive Request for Proposal process, with $502,997 distributed throughout the state of which 62%, or $311,176 supports services to high risk youth.

IV. Future Issues

Despite significant strides toward improved integration of substance abuse prevention activities into the present behavioral health system, two critical issues have yet to be fully resolved. First, Arizona lacks strong data on incidence and prevalence of substance abuse necessary for appropriate program planning and evaluation. It is as yet unclear the extent to which the Arizona Criminal Justice Commission, charged with the task of acquiring and maintaining such data, will actually be able to carry out its charge considering budget and time constraints. The Division of Behavioral Health Services intends to have a role in assisting the Commission, but that role is as yet undefined.

Second, it is very difficult to predict the degree of impact the Governor's Alliance for a Drug-Free Arizona may have on the treatment and prevention service system. Based on similar efforts in other states, we anticipate that the heightened public awareness of substance abuse problems will create an increased demand for prevention, early intervention and treatment services in the public sector.

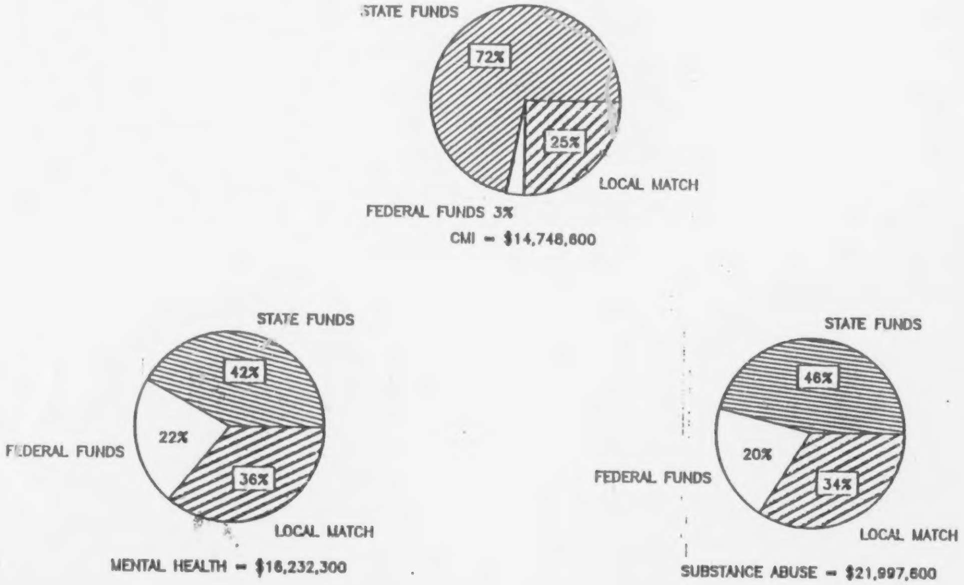
Finally, the Governor's Alliance for a Drug-Free Arizona Plan includes several specific recommendations for DHS to strengthen and expand the prevention, intervention and treatment system in Arizona. The Division of Behavioral Health Services intends to implement those recommendations over the next 24 months to the greatest extent possible.

V. Conclusion

Arizona has a long and colorful history based on what have become known as "The Five C's" - Cotton, Climate, Copper, Cattle and Citrus. Those of us in the substance abuse field have adopted another set of "Five C's" which we believe aptly describe the current and future efforts to better meet the very critical needs of Arizona's children and families. They are: Concerned, Committed, Coordinated, Creative and Cooperative.

EXHIBIT I

FUNDS BY SOURCE
FISCAL YEAR 1986-87
ACTUAL DOLLARS EXPENDED



DETAIL TO INCLUDE COUNTY FUNDS NOT AVAILABLE

EXHIBIT I

PE3

EXHIBIT II

IMPROVED INTEGRATION OF
SUBSTANCE ABUSE PREVENTION INTO
THE PUBLIC BEHAVIORAL HEALTH SYSTEM

ARIZONA DEPARTMENT OF HEALTH SERVICES
DIVISION OF BEHAVIORAL HEALTH SERVICES

Prepared By:	Kristine Bell Prevention Program Representative Office of Community Behavioral Health
Edited By:	Thomas E. Bittker, M.D. Assistant Director
	Michael J. Schwegler, Ph.D. Program Administrator

IMPROVED INTEGRATION OF SUBSTANCE ABUSE PREVENTION INTO THE PUBLIC BEHAVIORAL HEALTH SYSTEM

EXECUTIVE SUMMARY

The significant increase in national and state level attention to problems associated with alcohol and drug use/abuse, particularly among adolescents and young adults, has created a need for the Division of Behavioral Health Services to examine the current and future roles and responsibilities of the Single State Agency with regards to leadership, coordination, policy direction, technical assistance and program development. The following is a description of the Division efforts to address those prevention program issues.

1. Policy Direction

   Dr. Thomas E. Bittker, Assistant Director has adopted the recommendations set forth in the Position Paper of Prevention and has directed staff in the Office of Community Behavioral Health Services (OCBH) to review and modify OCBHS Policies and Procedures as needed to incorporate the following recommendations systemwide:

   1. Adoption of a set of 11 characteristics necessary for maintaining effective, comprehensive community-based prevention programs.
   2. Establishment of a theoretical framework for prevention program design, based on widely accepted prevention research and evaluation efforts.
   3. Implementation of a combination of prevention strategies at both the state and local levels.
   4. Adoption of acceptable and appropriate prevention activities for contracting purposes.
   5. Commitment to support statewide prevention training opportunities in conjunction with the Arizona Department of Education and the Governor's Office.
   6. Development and distribution of prevention program evaluation guidelines.
   7. Advocate and plan for increased availability of affordable substance abuse treatment services for adolescents and young adults.

   To date, revisions to portions of OCBH Policy and Procedure 508, Primary Prevention, have been drafted for review by the Program Representatives and Dr. Schwegler, and special program requirements for prevention services have been added to the FY-89 Request for Proposal. The special program requirements not only reflect consistency with the Position Paper on Prevention but also reinforce the criteria and standards of the Program Approval Standards for Community Behavioral Health Services.

2. Training and Technical Assistance

The OCBH has set aside Federal Funds to support expanded training and technical assistance activities for the purposes of: 1) upgrading the skills of community-based prevention specialists within the public behavioral health system; and 2) expanding the accessibility to proven successful prevention strategies in both school and community settings. Specifically, training events are scheduled as follows:

a. School Team Training of Trainers: A cadre of 60 educators and prevention service providers will receive intensive training in the U.S.D.E. School Team Approach to substance abuse prevention in September 1987. The OCBH is underwriting the training expenses for 10 entity/subcontactor staff to attend if each agrees to provide a minimum of 100 hours of training over the next 2 years.

   The objectives for the Training of Trainers include: furthering participants' knowledge of prevention; enhancing their formal presentation skills; training them in a team planning process; further developing group facilitation skills; learning how to design a prevention training event for their schools and/or communities.

b. School Team Training: Approximately 250 teachers, administrators and community providers will receive intensive residental training in school/community substance abuse program development in November 1987. This major training event is being funded by OCBH, the Arizona Department of Education and the Governor's Office on Substance Abuse, and is designed to assist representative teams in developing realistic action plans for prevention programs in their respective schools and communities.

c. Community-Based Prevention Specialist Course: The OCBH will conduct a modified version of the National Drug Abuse Center's training course entitled "Community-Based Prevention Specialist-Basic Course" for a maximum of 20 prevention providers in February 1988. The 5-day course focuses on preparing new prevention professionals for working in such areas as program consultation, program design and management, and community organization.

d. Annual Prevention Conference: The OCBH Prevention Program Representative,Kristine Bell serves as co-chair on the Conference Planning Committee, and as such is responsible for assuring that the conference agenda reflects the Division's priorities with regards to strengthening the skills and knowledge of prevention practitioners, community gatekeepers, parents and educators.

e. Governor's Alliance Against Drugs Workshops: Kristine Bell is a presenter at all of the regional workshops sponsored by the Governor's Alliance. Specific presentation content covers accessibility and availability of Division resources for prevention, characteristics of quality programs and priority target populations.

3. Coordination within ADHS

   Both the Division of Family Health and the Division of Disease Prevention Services have initiatives aimed at high risk youth, and have received Federal funds or foundation grants for program development. Collaboration with those Divisions is underway in order to capitalize on available resources and avoid duplication of effort. Specifically, program collaboration is planned regarding teen pregnancy, teen suicide, childhood accidents, smoking and smokeless tobacco, teen drinking and driving, adolescent health risk appraisals in school, and school-based health clinics.

   John Migliaro, Program Representative in the OCBHS is actively involved in working with the Office of Health Education regarding support for new prevention projects focusing on intravenous drug users as potential carriers or recipients of the AIDS virus. The Office of Community Behavioral Health Services is also coordinating a training program for substance abuse counselors and entity Executive Directors on effective methods for treating drug clients with AIDS.

4. Coordination with Other State Agencies

   The Division and OCBH are represented and actively involved in numerous local and state level coordinating groups, most notably the School Chemical Abuse Interagency Committee and the Governor's Alliance Interagency Committee. Ms. Bell prepares regular written reports for both groups, as well as the Joint Legislative Oversight Committees for ARS 15-712 (School Chemical Abuse Act) and H.B.2022 (Drug Abuse Bill, 1987).

Despite significant strides toward improved integration of substance abuse prevention activities into the present behavioral health system, two critical issues have yet to be fully resolved. First, Arizona lacks strong data on incidence and prevalence of substance abuse necessary for appropriate program planning and evaluation. It is as yet unclear the extent to which the Arizona Criminal Justice Commission, charged with the task of acquiring and maintaining such data, will actually be able to carry out its charge considering budget and time constraints. The Division of Behavioral Health Services intends to have a role in assisting the Commission, but that role is as yet undefined.

Second, it is very difficult to predict the degree of impact the Governor's Alliance for a Drug-Free Arizona may have on the treatment and prevention service system. Based on similar efforts in other states, we anticipate that the heightened public awareness of substance abuse problems will create an increased demand for prevention, early intervention and treatment services in the public sector.

Finally, the Governor's Alliance for a Drug-Free Arizona Plan includes several specific recommendations for DHS to strengthen and expand the prevention, intervention and treatment system in Arizona. The Division of Behavioral Health Services intends to implement those recommendations over the next 24 months to the greatest extent possible.

KB90287A

ARIZONA DEPARTMENT OF HEALTH SERVICES
DIVISION OF BEHAVIORAL HEALTH

Position Paper on Prevention

History and Background:

As the designated State Alcohol and Drug Abuse Agency, the Arizona Department of Health Services, Division of Behavioral Health Services has primary responsibility for planning, implementing, managing and monitoring the effectiveness of treatment and prevention services for citizens in need throughout Arizona. For several years prior to 1980, both NIAAA and NIDA made some direct funding available to the State Agency for the appointment of "State Prevention Coordinators", in an effort to enhance the states' capabilities to carry out those responsibilities specific to prevention services. Training support and modest levels of funding for statewide prevention activities were also made available.

At the inception of the ADM Block Grant system in FY-81 the Institutes shifted from funding prevention "job slots" at the state level, and as an alternative Congress mandated a 20% set aside of Block Grant funds for prevention and early intervention. A portion of Arizona's ADM Block Grant funds were used to support continuation of the State Prevention Coordinator positions through FY-83. In July 1984 the Division of Behavioral Health was reorganized, with a subsequent reduction in force and the loss of staff support to provide leadership, coordination, policy direction and technical assistance in the area of prevention and early intervention.

Simultaneous to the ADHS reorganization, Arizona witnessed a heightened awareness of, and increased public attention toward, alcohol and drug abuse problems, resulting in the rapid expansion of a grass-roots approach to prevention program development. Such a grass-roots approach sometimes meant that anyone with a creative or innovative idea became a "prevention program" in the hope of receiving funding.

On the positive side, this grass-roots movement proved invaluable in lobbying for increased resources to address the substance abuse problem. In April, 1985 the Arizona Legislature passed the Chemical Abuse Prevention Act, (A.R.S. 15-712) appropriating funds to the Arizona Department of Education to establish school-based prevention activities and setting guidelines for local school district prevention program development. Then came the Anti-Drug Abuse Act of 1986 (P.L. 99-570), passed by both Houses of Congress and signed by the President in October, 1986. Finally, during the most recent legislative session, the Governor and Legislature established major initiatives to address the complex issues of drug and alcohol abuse in Arizona.

This expansion of resources and heightened involvement of many segments of the public and private sectors is indeed encouraging, but at the same time creates a need for the Department of Health Services, and is particular the Division of Behavioral Health to clarify the agency's role, establish priorities and articulate policies which will guide the agency in its efforts to fight alcohol and drug abuse problems.

Issues and Recommendations:

1. The current community-based behavioral health system lacks a general framework upon which prevention programs and services should be established and maintained.

Due in part to the lessened capabilities of the Division in the past 3 years to provide programmatic technical assistance, there has been a general erosion of the essential elements necessary for strong, comprehensive prevention programs at the local level. It also appears that, for the most part, there is a sense of complacency among providers which has resulted in stagnation, repetition of program activities from year to year and an overall lack of attention to strengthening the prevention component within the provider system. It is therefore important that the Department adopt and communicate to the field a set of criteria upon which multi-faceted, community-wide programs can be built.

Recommendation:

The Department should as a matter of policy, adopt the following 11 items as characteristics necessary for effective, comprehensive community-based prevention programs.

A broadly representative program planning process

A written action plan containing specific time framed goals and objectives

An array of different prevention activities

Program alternatives targeted to multiple targets and populations

Data collection and analysis models that assure a strong evaluation base

A program of work sensitive to the needs of all groups in the community

Integration into the existing health care system

Grass roots "ownership" of the program by all the community groups involved

Activities designed to serve over the long term and a commitment to continued service

A marketing and promotional approach to key policy-makers that seeks to involve them in continued support

A documented program that can be explained, interpreted, and replicated in similar settings.

2. **With few exceptions the development of prevention programs is determined on the basis of staff skills and interest, which vary dramatically from provider to provider. Due to resource limitations and a lack of expertise, many programs have a weak theoretical base and consequently have only limited prospects for success.**

The prevention field over the past ten years has benefited from numerous research and evaluation efforts, the results of which are only now becoming widely available at the program level. While these recent research activities are still somewhat inconclusive in proving "what works best", many important findings have demonstrated definitively "what does not work." In order to be effective, prevention programs should be designed according to certain concepts or "guiding principles" gleaned from prevention research. This is especially important for programs aimed at children and adolescents, the primary target group for substance abuse prevention efforts.

Recommendation:

The Department should accept the following concepts which are based on prevention research, as important considerations in the design and implementation of prevention programs in the public behavioral health system.

1. It is unclear exactly which critical prevention program elements result in a non-use behavior and/or attitude, and how these effects can be maximized and maintained over time. Therefore, comprehensive prevention programs are encouraged that target multiple systems (youth, families, schools, media, community organizations) and use multiple strategies (provide accurate information, develop life skills, train facilitators, and change community policies and norms). The responsibility for the successful implementation and maintenance of a prevention program/approach does not lie with the individual alone—it is a total systems approach that links the three key elements of the public health model: host, agent, and environment.

2. Prevention programs do not work in isolation. There must be a continuum of clear, concise, coherent, and unambiguous messages that occur regularly in all aspects of a community--schools, workplace, media, religious organizations, public and private sectors, legal and judicial, and families.

3. The provision of information about the dangers of any given drug or drugs in general is not sufficient, in and of itself, to change attitudes and behavior regarding substance use. Since substance abuse results from a complex interaction of cognitive, psychological, social, and environmental factors, all relevant factors must be considered in designing programs. Skills development (learning new behaviors) must be in conjunction with knowledge provision and behavior change.

4. Substance abuse is not a singular phenomenon. Factors related to use differ among various target groups. Thus, approaches must be sensitive to cultural and societal norms, values, and patterns, and must be integrative across community institutions. Programs must also be directed to where high risk youth often can be found--in foster homes, the juvenile justice systems, boarding schools, halfway houses, special education programs, runaway shelters, etc.

5. Peers play a critical role in the progression into and maintenance of both delinquent behavior and substance abuse.

6. Total family function is closely related to adolescent substance abuse, its prevention and reduction. Young people from families in which one or more members smoke, drink, use drugs, or engage in criminal activities are more likely to become substance abusers.

7. Surveys show that adolescent alcohol and cocaine use occurs most often in the home. Marijuana use most often occurs at a friend's home. The school is the least likely site of alcohol or drug usage. Weekends and week nights were the time periods most often reported for drug use. These results suggest the need for better coordination and cooperation between parents and other community institutions, including schools.

8. Substance abuse prevention efforts should be part of a broader, generic health promotion and disease prevention effort. Risk for substance abuse behaviors should be seen in the context of other adolescent risk-taking behaviors—delinquency, truancy, school failure, and precocious sexuality.

9. Prevention programs need to be comprehensive, integrative, intensive, and enduring throughout life stages.

10. Prevention and intervention activities need to be of sufficient number, frequency, intensity, and duration. One-time efforts do not work.

11. Messages should be aimed at specific substances, because substances differ in their effects, social pattern of use, and stage of life of onset (gateway theory).

12. The earlier a youth begins to drink or use other drugs the greater the likelihood of later developing drug problems. Using drugs before age 15 greatly increases the risk of later sustained problematic use. Prevention efforts therefore should start early.

3. **Reports and service data from programs indicate that information is the approach most frequently used at the community level, even though research clearly shows that information alone is an ineffective strategy, and in fact may even be related to increased drug use. Providers need to implement a combination of prevention strategies appropriate to the specific problems in their communities.**

Information is only one of several prevention strategies necessary for an effective, comprehensive program. The Department expects providers to design prevention programs using a variety of strategies, because such programs have proven to be more effective in reducing substance abuse problems.

Recommendation:

The specific prevention strategies viewed by ADHS as appropriate and allowable for the purposes of contracting should include:

Information: Programs designed to provide accurate, honest, and timely information about all types of drugs and their effects on the human system. Information programming includes such activities as appropriately targeted media campaigns, fliers, posters, brochures, or drug information seminars for youth, parents, and other target groups.

Education: Programs that assist individuals to develop or improve their critical life skills. They often include training and learning activities that promote the development of skills in decision-making, coping with stress, values awareness, problem-solving, interpersonal communication, and intrinsic motivation.

Alternatives: Programs that provide challenging positive growth experiences in which people can develop and self-discipline, confidence, personal awareness, self-reliance, and independence they need to become socially mature individuals. Alternative prevention programs are designed to offer positive alternatives to drug-taking behavior through a potpourri of community activities.

Intervention: Programs that help people to assess their problems and seek solutions to them. Intervention strategies include referral for treatment, hot line assistance, peer counseling, driving while intoxicated and employee assistance programs, and student assistance programs.

Environmental Change: Programs that seek to identify and change social and physical environmental factors that influence drinking and drug using behaviors and patterns. Change methods may include modifying drinking settings or settings which are unsafe for intoxicated individuals, insulating others from undesirable drinking and drug using behaviors, or changing reactions to drinking/drug use behavior.

Social Policy Change: Programs that attempt to influence alcohol/drug use in the general population. Strategies for modifying social policies include: changing laws, regulations, and enforcement procedures governing alcohol and drug availability and distribution; changing taxation policies; modifying alcohol advertising practices; or reducing possible negative consequences of drinking through, for example, consumer product safety or automobile safety regulations.

4. **Agencies throughout the behavioral health system have experienced a severe depletion of trained and experienced prevention specialists over the past five years. There is a need to replenish the staff resources within the system not only by recruiting and training new personnel but also through retraining and upgrading the skills of current specialists.**

As discussed in the background portion of this document, nearly all facets of society in Arizona are becoming involved in the drug abuse prevention "movement". The talent pool in the state available to develop strong, comprehensive programs and coordinate resources among numerous groups and organizations is very small. Additionally, there is concern among some prevention professionals that newcomers in the prevention field may tend to oversimplify alcohol and other drug problems and their solutions. This oversimplification could result in ineffective or even counterproductive efforts.

Recommendation:

The Department should commit resources to conduct trainings and technical assistance sessions for provider agencies in the areas of prevention theory, program design and implementation, prevention evaluation and program management. The Department should also actively support and participate in the various prevention training opportunities to be offered during FY-88 by the Arizona Department of Education and the Governor's Office of Substance Abuse. Those include:

Training of Trainers (TOT)-September, 1987
Statewide School/Community Team Training - November, 1987
State Prevention Conference - January, 1988
Summer Teen Leadership Institute - June, 1988

5. **A significant degree of confusion, misinformation and lack of direction regarding prevention evaluation, combined with limited resources and expertise, has resulted in evaluation results of minimal usefulness to policymakers and program managers.**

Agencies that do perform program evaluations tend to focus on research-oriented evaluation techniques, ie., those that determine the extent to which program efforts produce the desired results. This type of evaluation is usually performed "after the fact", and is often technically inadequate. Management-oriented evaluation that produces information for decision-making and that can be used as a management tool has received very little attention at the state or local level. The behavioral health system needs to establish prevention evaluation guidelines to help insure that local program efforts are planned and managed with clear and specific objectives; that program procedures are realistically designed to meet those objectives; and that managers will have information to determine whether what they planned to happen actually happened.

Recommendation:

The Department should develop and disseminate guidelines and/or standards for evaluation of local programs that incorporate and elaborate on three essential evaluation concepts:

1. Start evaluation efforts early
2. Set measurable, achievable objectives
3. Plan the evaluation activities (specify outcome indicators, develop data base etc.)

These concepts can be implemented through; a) a handbook for doing evaluations that is disseminated to providers; b) requirements in the FY-89 Community Behavioral Health Services Request for Proposal; and c) modifying standardized data reporting to more adequately reflect levels of program effort and subsequent outcome measurements.

6. **As the number of prevention programs in the state increase, and the scope of those programs expand, the need for appropriate treatment resources will increase.**

Increased public awareness of the problems associated with alcohol and drug abuse is a major emphasis of the recent initiatives from the Governor's Office and the State Legislature. Such increased awareness will undoubtedly result in more demand for treatment services from an already overburdened system. This will be especially true in the case of adolescent treatment services. In order to be eligible for federal and state prevention funds, school districts are required to establish intervention and referral mechanisms for troubled students and will be reaching out to community-based treatment agencies as a means of complying with that funding requirement.

Recommendation:

The Department should make a major commitment, through the annual budget process, to provide increased access to appropriate adolescent treatment services.

The degree of impact on the treatment system from expanded or improved prevention efforts is unknown. It is therefore essential that the Department, in concert with treatment providers, law enforcement agencies, schools and community representatives, perform a needs assessment specific to this issue within the next 12 months.

7. **Arizona now has considerably more substance abuse prevention dollars than ever before. To best utilize those funds greater effort needs to be made to coordinate prevention activities, not only among the state agencies administering the funds but also among local prevention efforts where target groups overlap (e.g. teen pregnancy, teen suicide, school dropouts, child abuse).**

State agency coordination is a major emphasis of both the Governor's Alliance for a Drug-Free Arizona and the recently passed drug abuse legislation. The methods and functions of state interagency coordination with regards to prevention are clearly described and already in progress. What is important now is for local communities to replicate the coordination initiatives of the state agencies.

Recommendation:

The Department should encourage local community behavioral health agencies to take a leadership role in mobilizing their communities' resources to address substance abuse prevention.

Behavioral health agencies are already contractually required to provide advocacy, conduct needs assessments, coordinate services and allocate resources. The Office of Community Behavioral Health can provide technical assistance and closer monitoring to ensure that agencies comply with contract provisions.

KB7887

Senator DECONCINI. Chief Fragoso, thank you for being with us today.

STATEMENT OF ALVARO FRAGOSO, CHIEF OF POLICE, CITY OF DOUGLAS

Mr. FRAGOSO. Thank you for having me here.

Senator DECONCINI. Would you summarize your statement and give us your testimony.

Mr. FRAGOSO. Again I also would like to compliment you, Senator, on your leadership, for all you've undertaken and done in this war on narcotics.

I am the chief of police of Douglas, which is on the U.S.-Mexico border. My name is Alvaro Fragoso. I'm engaged in the problems that we all have, narcotics, and the seizures and the number of arrests that the Douglas Police Department makes. And I compared in 1987, for the record, the seizures made in 1986 of marijuana, and we doubled the seizures in 1987.

In 1986 the Douglas Police Department had confiscated three ounces of cocaine. In 1987 we surpassed those three ounces by 915 pounds, five ounces. That is just to give you an idea of the problems, that it doesn't go away, and it gets larger and larger.

Yet, during the same period, the sworn personnel strength of the Douglas Police Department has been cut back, a situation which is not unique at the local law enforcement level for departments of comparable size.

Requests for additional personnel and/or more monies for overtime are routinely denied due to fiscal constraints on the local governments and most especially those directly impacted by the peso situation on the Mexico-U.S. border.

It is difficult for any police administrator to develop any long-range plans or strategies when faced with an uncertain budget and economy. The end result is that the Douglas Police Department primarily relies on short-term planning and strategies to accomplish its portion of the mission in this war against drugs. And, in most instances, the Douglas Police Department must rely on the cooperation of other local, State and Federal agencies to accomplish even these goals.

Legislation passed in recent years has alleviated this problem somewhat in that funds and other assets forfeited and seized as a result of successful narcotics and other investigations are going directly to the local agencies for law enforcement use. The "asset sharing policy" of the U.S. Customs Service has also done wonders in this area at the local level.

And although this "asset sharing" and legislation has begun to provide our agency and many others with much-needed vehicles and other equipment, one is certain to reach an equipment saturation point. The critical factor then becomes personnel.

If there's not enough personnel to devote to those investigations which result in the forfeiture and seizure of those assets or there is not enough personnel to participate in joint investigations with the U.S. Customs Service, no local law enforcement agency will ever reach its full potential in this area.

The dilemma then becomes: where do we find funding for these much-needed resources and on a long-term basis?

Local government, with its many other priorities and responsibilities will still not have funds available for this area. Local government will not have the required matching funds available for most assistance, whether State or Federal, to begin to address this issue, and local government will continue to be reluctant to enter into a short-range fiscal solution to this problem, and they continue to support it for years to come—alone. I do not have a solution to this problem. I'm merely pointing out to this community what it is that I and many law enforcement administrators are up against, and yet are expected, and in some instances our communities demand, to find solutions to this narcotics problem.

Thank you very much.

Senator DECONCINI. Thank you very much, Chief, and I know the problem down there is pretty hard.

How much has your force been reduced?

Mr. FRAGOSO. It was reduced three.

Senator DECONCINI. What does that mean, what percentage?

Mr. FRAGOSO. That's 10 percent of my police department.

Senator DECONCINI. And that was because of a lack of funds on the local level?

Mr. FRAGOSO. Lack of funds and also the smelter, the fact that closed down had some impact. I believe that the peso devaluation had a large impact on that also.

Senator DECONCINI. Your force is down a little bit?

Mr. FRAGOSO. Yes, sir.

Senator DECONCINI. What has been the level of cooperation with the Federal law enforcement agencies in Cochise County? Are you satisfied with the intelligence that you receive from them?

Mr. FRAGOSO. Yes, I am. The intelligence and the cooperation, particularly from the Customs agencies.

Senator DECONCINI. Is it good?

Mr. FRAGOSO. It's fantastic. We have a very good rapport with them and a good working relationship.

Senator DECONCINI. That's encouraging. It didn't used to be that way, that you were very close.

Have the forfeitures at the State and the Federal level—I know they're becoming an important tool, but has your department been able to benefit from the forfeitures from the Federal law enforcement agencies at all?

Mr. FRAGOSO. Yes, we were able to quite a bit, to use quite a bit of equipment from the seizure and forfeiture in the narcotics investigation that we conducted approximately a year ago that went to the State level. And at one point we were given a grant of $120,000 towards this purpose. From there we bought vehicles and several other pieces of equipment.

Senator DECONCINI. Thank you.

Ladies and gentlemen, thank you very much for your testimony. It helps us immensely to lay for the record here and to justify adjustments in funding at the Federal level. Thank you for taking the time.

[Letter to Senator DeConcini follows:]

CITY OF DOUGLAS
POLICE DEPARTMENT
P. O. BOX 4076
DOUGLAS, ARIZONA 85608

TELEPHONE (602) 364-8422

April 20, 1988

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RECEIVED
TUCSON

Dennis DeConcini
United States Senator
United States Senate
Committee on the Judiciary
Washington, DC 20510-6275

Dear Senator DeConcini:

In 1987, compared to the previous year, the Douglas Police Department has experienced a marked increase in drug and narcotic seizures and arrests. Those statistics are as follows:

SEIZURES	1986	1987	1988
MARIJUANA	911 Lbs. 13½ Oz.	2025 Lbs.	259 Lbs.
COCAINE	3 Oz.	915 Lbs. 5 Oz.	1 Oz.
HEROIN	- - -	4 Lbs.	- -
HASHISH	2 Oz.	1 Oz.	- -

ARRESTS	1986	1987	JAN/FEB/MAR 1988
	140	234	48

During this same period, the sworn personnel strength of the Douglas Police Department has been reduced...a situation which is not unique at the local law enforcement level for departments of comparable size.

Requests for additional personnel and/or more monies for overtime are routinely denied due to the fiscal constraints on the local governments, and most especially those directly impacted by the Peso situation along the Mexico-U.S. Border.

It is difficult for any police administrator to develop any long-range plans or strategies when faced with an uncertain budget and economy.

The end result is that the Douglas Police Department primarily relies on short-term planning and strategies to accomplish its portion of the mission in this war against drugs. And, in most instances, the Douglas Police Department must rely on the cooperation of other local, state and federal agencies to accomplish even these goals.

Legislation passed in recent years has alleviated this problem somewhat, in that funds and other assets forfeited and seized as a result of successful narcotics and other investigations, are going directly to the local agencies for law enforcement use. The "Asset Sharing Policy" of the U.S. Customs Service has also done wonders in this area at the local level.

And although this "Asset Sharing" and legislation has begun to provide our agency and many others with much needed vehicles and other equipment, one is certain to reach an "equipment saturation" point.

The critical factor then becomes personnel.

If there is not enough personnel to devote to those investigations which result in the forfeiture and seizure of those assets, or there is not enough personnel to participate in joint investigations with the U.S. Customs Service, no local law enforcement agency will ever reach its full potential in this area.

The dilema then becomes, "where do we find funding for these much needed resources and on a long-term basis?"

Local government, with its many other priorities and responsibilities, will still not have funds available for this area;

Local government will not have the required matching funds available for most assistance, whether state or federal, to begin to address this issue; and,

Local government will continue to be reluctant to enter into a short-range fiscal solution to this problem and then continue to support it for years to come...alone.

I do not have a solution to this problem.

I am merely pointing out to this Committee what it is that I and many law enforcement administrators are up against and yet are expected, and in some instances our communities demand, to find solutions to this narcotic problem.

ALVARO H. FRAGOSO
CHIEF OF POLICE

AFTERNOON SESSION

Senator DECONCINI. Ladies and gentlemen, thank you very much for being with us, and we'll proceed here. We've got 35 minutes or so and I'm sorry the time seems to slip away, but I'm very interested in looking at some of your statements.

We'll start with Mr. Vandenbosch, if you could just summarize.

STATEMENT OF WILLIAM VANDENBOSCH, CHAIRMAN, ARIZONA STATE JUVENILE JUSTICE ADVISORY COUNCIL

Mr. VANDENBOSCH. Thank you, Sen. DeConcini. It's a pleasure to be here and to have the opportunity to speak. I will shorten my remarks to basically three points and three recommendations on behalf of the State Advisory Council on Juvenile Justice.

We obviously are here in support of the reauthorization of the Juvenile Justice and Delinquency Prevention Act as amended. The State of Arizona has been a participant under the JJDP Act since 1975. Since that time Arizona has made considerable progress in meeting the requirements of the act.

In terms of the deinstitutionalization requirement, "DSO," Arizona is reporting a 94 percent reduction in the number of status offenders held in secure detention facilities—the total number held in 1987 is 229, from a high figure of 4,068 in 1974.

In regard to the sight and sound separation requirement, Arizona law prohibits the holding of juveniles within sight or sound of adult prisoners. In fact, each county in the State, except La Paz, which is a relatively new county and is served by a juvenile detention facility run by a staff who are trained to deal with juveniles.

The third requirement dealing with the removal of juveniles from adult jails and lockups, or the jail removal provision, has been somewhat more of an obstacle to the State's continued progress and future eligibility to receive JJDP funds. The problem here is not that the police chiefs and county sheriffs want to hold juveniles, but rather that occurrence is sporadic and normally reflects a situation most often aggravated by geography, distance, road conditions, weather, low population density and the improbability of appropriate, cost-effective alternatives.

I have an example in the record more for the other Senators than for yourself, which specifically addresses the difficulties that a community like Payson, Ajo, Benson and Willcox and other small communities face that deal with that particular issue.

We have a couple of recommendations, I think, that would be helpful to the enhancement of the act and also deal with, first, specifically the jail-removal requirement. We would request that this committee consider the adoption of de Minimis exceptions to the jail-removal requirement similar to those under DSO, which take into account such items as population density, geographic proximity to appropriate juvenile detention facilities, the State's juvenile population and the numerical magnitude of baseline data used to assess compliance with this requirement. For example, during 1987

Arizona held 87 juveniles. While this number translates to only ten juveniles being held per 100,000 of the State's juvenile population, it represents only a 64 percent reduction under the present law.

A second recommendation that we have is in regard to some current problems that have become more and more prominent in terms of national attention, and that has to do with alcohol use. States are encouraged to raise the legal drinking age. Many, like Arizona, have, so that in order to consume alcoholic beverages legally, one has to be 21 years of age.

We're finding in Arizona over the past 2 years there has been a 50 percent increase in the referrals to juvenile courts for alcoholic offenses. We would recommend that the Federal law reflects changing community standards nationally. It is recommended that the crime of consuming or possessing alcohol by juveniles be treated not as a status offense but as a delinquent act and regarded with at least the same seriousness as other delinquent behavior.

The third recommendation that the council has I think directly reflects to some testimony by the previous panel members is in regards to Native Americans. Formula block grants to states under the JJDP Act are based in part on a per-capita representation of juveniles. Arizona's population of 867,000 juveniles, for example, includes approximately 70,000 Native American juveniles. There is no requirement, under the JJDP Act, to address violations occurring on Indian reservations--that is to say that the JJDP State program is not held responsible, requiring the deinstitutionalization of status offenders, sight-and-sound separation of juveniles from adults, or for removing juveniles from adult jails or tribal lands.

It is the opinion of the Arizona Juvenile Justice Advisory Council that the JJDP Act, however unintentionally, has managed to exclude Native American youths from the benefits available through the provisions of the act. We would request that this committee consider appropriate amendments to the JJDP Act to rectify this inconsistency in Federal law.

So it would be our recommendation that the monies under the JJDP Act be made available specially for achieving compliance on Indian reservations. Funds for this effort, however, should not jeopardize current state block funding. They should either be new monies or be made available to the formula grant program by reducing the percentage of funds currently devoted to special emphasis programming that ends up being national-type programs and helping preserve certain perspectives of the Attorney General's and others with somewhat questionable impact in terms of the quality of programs. Thank you.

Senator DECONCINI. Thank you very much.

With the possibility of Federal and State cutbacks, are you looking to alternatives for funding in Arizona, private funding or any place else, or are you waiting?

Mr. VANDENBOSCH. We're waiting a great deal. We've had some success over the past years in terms of having a number of the programs that we have funded. I think of approximately 250 programs that have funded since the inception of the act, about half of those have been picked up because we have used—always viewed them as seed money and not to be on-going funding.

However, there is no way that the State of Arizona would be in the position, as has been testified previously, to pick up the $550,000 that's currently available.

Senator DECONCINI. Thank you.

[Prepared statement follows:]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

HEARING: APRIL 25, 1988
TUCSON, AZ

RE: S.1250

Testimony of William V. Vandenbosch
Chairman, Arizona State Juvenile Justice Advisory Council

Mr. Chairman, Members of the Committee . . . I am William Vandenbosch, Chairman of the Arizona Governor's Juvenile Justice Advisory Council. I appreciate the opportunity to present testimony on behalf of Arizona's juvenile justice program and in support of the reauthorization of the Juvenile Justice and Delinquency Prevention Act as Amended.

The State of Arizona has been a participant under the JJDP Act since 1975. Since that time, Arizona has made considerable progress in meeting the requirements of the Act. In terms of the deinstitutionalization requirement (DSO) Arizona is reporting a 94 percent reduction in the number of status offenders held in secure detention facilities -- the total number held in 1987 is 229, down from 4,068 held in 1974.

Regarding the sight and sound separation requirement, Arizona law prohibits the holding of juveniles within sight or sound of adult prisoners. In fact each county in the state, except LaPaz, is served by a juvenile detention facility run by staff who are trained to deal with juveniles.

The third requirement, dealing with the removal of juveniles from adult jails and lockups (Jail Removal) in effect since the adoption of that amendment in 1981, poses somewhat more of an obstacle to the state's continued progress and future eligibility to receive JJDP funds. Here, the problem is not one of being unwilling to comply with the requirement. In fact the opposite is true, Police chiefs and county sheriffs do not want to hold juveniles at all. Rather, this occurence is sporadic and normally reflects a situation most often aggravated by geography (distance, road conditions, weather, etc.), low population density, and the unprobable availability of appropriate, cost-effective alternatives.

I would like to illustrate this problem by offering an example:

Example

> Page, Arizona is a small community of 6,500 people located on the Colorado River in Northern Arizona near the Arizona-Utah border. The town is flanked on two sides by the Navajo Indian Nation and is situated 140 miles from Flagstaff, the seat of 18,600-square-mile Coconino County. It is remote. There are times during the winter months when the road to Flagstaff is temporarily impassible.
>
> If a juvenile is arrested in Page for a crime serious enough to require his detention, he will be held by judicial order in the Page adult facility pending transportation to the Flagstaff juvenile center. It may take several hours -- or even overnight if the arrest is made late at night or on a weekend -- to arrange for the juvenile's transport.
>
> The incident must be recorded as a violation of the JJDP Act, Jail Removal requirement.

This situation occurs by necessity, not choice, in Page and other smaller communities like Payson, Ajo, Benson and Willcox during the course of any given year. In 1987, eighty-seven juveniles were held for six hours or more in adult jails and lockups across the state. Compared to a baseline number of 240 in 1981, this, in my opinion, reflects considerable progress, but unfortunately not enough progress to satisfy the JJDP Act standards for compliance.

It is the opinion of the State Juvenile Justice Advisory Council that determining compliance with this requirement would be more fairly and accurately accomplished if the determination was made on a minimum-allowable numerical basis rather than as a percentage of the baseline figure. In this regard I would like to offer a recommendation for consideration by this committee.

Recommendation Re: the Jail Removal Requirement

(Sec. 223(a)(14)

> We would request that this committee consider the adoption of de Minimis exceptions for the jail removal requirement similar to those under DSO which take into account such items as population density, geographic proximity to appropriate juvenile detention facilities, the state's juvenile population, and the numerical magnitude of baseline data used to assess compliance with this requirement. The result here would be that states holding relatively few juveniles during the baseline data period could also demonstrate compliance by the number being held compared to the state's juvenile population rather than only as a percentage of the baseline number. For example, during 1987, Arizona held eighty-seven juveniles. While this number translates to only 10 juveniles being held per 100,000 of the state's juvenile population, it represents only a 64 percent reduction under the present law.

The JJDP Act has played a positive role in juvenile justice reform in Arizona. Significant progress has been made in the way juveniles are handled in both the juvenile justice and social service systems. Juveniles accused of delinquent acts receive more speedy treatment to determine guilt and the need for detention. Abused or dependent children are more quickly identified and appropriately referred for services. State funding has increased in the area of non-secure alternatives for juveniles. State law now prohibits the commitment of status offenders to state correctional facilities.

The major strength of the JJDP Act has been the flexibility in its language and the resulting ability to direct the funds and energy of the program to current problems and issues. In order for the program to continue and increase its effectiveness we would request that this committee also consider the following issues in the reauthorization debate.

First, is the issue of teenage alcohol use. Use of this substance among teenagers has increased dramatically over the past few years. It is being viewed as one of the most serious problems facing communities across the nation. Federal guidelines and requirements reflect the seriousness of alcohol comsumption when determining eligibility for certain state block grants such as those devoted to highway construction. States are encouraged to raise the legal drinking age. Many, like Arizona, have. You must now be 21 years of age to possess or consume any alcoholic beverage. Citizens are speaking out in ever growing numbers to "do something" about the needless deaths and human tragedy caused by alcohol use by teenagers. Community standards are being reflected in law enforcement policy and judicial decisions to get tough on underage drinking -- which now includes eighteen, nineteen and twenty year-olds. In Arizona over the past two years there has been a 50% increase in referrals to juvenile courts for alcohol offenses.

The JJDP Act defines a status offense as any offense for which a child under the age of eighteen can be arrested but which would not be considered a crime if the person were an adult.

In summary, subsequent to the increase in the legal drinking age, adults (eighteen to twenty year-olds) can be arrested for the same crime as minors. Specifically, possessing or consuming alcohol.

Recommendation Re: Alcohol Offenses by Minors

> To the extent that federal law reflects changing community standards nationally, it is recommended that the crimes of consuming or possessing

> alcohol by juveniles be treated not as a status offense, but as a delinquent act and regarded with at least the same seriousness as other delinquent behavior.

Also an issue of concern to the state of Arizona and other states with indigenous populations of Native Americans is the apparent inability of the JJDP Act to effectively address conditions for youth living on Indian reservations. Formula block grants to states under the JJDP Act are based in part on a per capita representation of juveniles. A state's juvenile population includes juveniles residing on Indian reservations. Arizona's population of 867,000 juveniles, for example, includes approximately 70,000 Native American juveniles. There is no requirement, under the JJDP Act, to address violations occurring on Indian reservations -- that is to say that the JJDP State program is not held responsible for requiring the deinstitutionalization of status offenders, sight and sound separation of juveniles from adults, or for removing juveniles from adult jails or tribal lands.

It is the opinion of the Arizona Juvenile Justice Advisory Council that the JJDP Act, however unintentionally, has managed to exclude Native American youth from the benefits available through the provisions of the Act. We would request that this committee consider appropriate amendments to the JJDP Act to rectify this inconsistency in federal law which normally presumes that "...the federal government has an historical relationship and unique legal and moral responsibility to Indian tribes and their members..." (Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986).

Recommendation Re: Indian Juvenile Justice

> The Arizona Juvenile Justice Advisory Council recommends that monies under the JJDP Act be made available specifically for achieving compliance on Indian reservations. Funds for this effort, however, should not jeopardize current state block funding. They should either be new

monies or be made available to the formula grant program by reducing the percentage of funds currently devoted to special emphasis programming.

On behalf of the Arizona Governor's Juvenile Jusice Advisory Council, I want to thank the Senate Committee on the Judiciary for the opportunity to share this information relating to the to-date progress and future concerns of the Arizona juvenile justice program.

Thank you.

Senator DeConcini. Ms. Ardus.

STATEMENT OF BETTY ARDUS, NATIONAL NETWORK FOR VICTIMS OF SEXUAL ASSAULT

Ms. Ardus. My name is Betty Ardus. I'm here on behalf of the National Network for Victims of Sexual Assault in support of 1250.

I would like at this time to introduce a friend of mine from Tucson, Barbara Brown, who is in charge of the Tucson Rape Crisis Center, and if there are any specific questions, please ask her.

But I'll tell you briefly what we included in our statement.

It's a pleasure to be here, Senator. You have consistently—in the reauthorization of the 1984 Victim of Criminal Acts—is a further demonstration of your on-going concern for the victims of a crime. We support the Senate Bill 1250 because it reflects a long-term commitment by Congress to a Federal and State criminal justice partnership, and because it reflects a commitment to the safety and welfare of American citizens by keeping in place vitally needed state assistance programs which aid the victims of the crimes.

Moreover, it contains impressive new initiatives to strengthen current law by improving criminal justice systems' response to domestic and family violence, including the abuse of women, children and the elderly.

The Justice System Act authorization for data collection and reporting of family violence by the FBI and the Bureau of Justice statistics recognizes family violence as a priority law enforcement program.

Since encactment of the 1984 Victim of Crime Act, the following data by crimes against American women and children have been released: in 1984, 1.9 million incidents of child abuse and neglect were reported to State child protective services. In 1985, reported incidents increased by 12 percent, bringing the total to 2.2 million.

In 1984, 113,000 cases of child sexual assault were reported to the State's child protective services. In 1985 the number increased by 13 percent to 127,690. In 1986, 1,200 deaths occurred as a result of child abuse and neglect. Between 1983 and 1986 reported incidents of forcible rape rose 13 percent from 78,920 to 90,430. In 1986 the Bureau of Justice statistics set the actual reported and nonreported incidents at 138,490. In 1986, 311,000 women and children sought shelter from the family violence in the Nation's domestic violence shelters.

Because the foregoing is not inclusive of all types of crimes which would fall under the headings of "sexual assaults" or "family violence," nor incidents reported to agencies other than those cited, it cannot be viewed as a complete picture of the scope of crimes against American women and children, but it provides an insight into the extent of the problem which the Federal Victims of Crime Act seeks to address.

Nationwide, rape crisis centers are reporting an average 29 percent increase in demand for victim services between 1986 and 1987, with many reporting as much as a 75 percent increase in victim service hours. The volume of victims and family members served varies, of course, by State and by the number of rape crisis centers available in each State to serve them.

Here in Arizona four statewide sexual assault service programs responded to over 5,000 crisis events and/or victim assistance requests in 1987.

Given estimates that one in every three women will be raped during their adult lifetime, three in every five women will be battered by their partners, and that one in every four girls and one in every ten boys will be sexually abused by the age of 14 years, that demand for crime victim assistance will undoubtedly continue to increase at even greater rates over the next decade. And the majority of the providers of this assistance are ill-equipped to meet this demand.

At present only 723 rape crisis centers exist nationwide to meet the needs of these victims, plus the secondary victims, such as parents, spouses, et cetera.

Further, in 1986 inadequately funded domestic violence shelters were forced to turn away two women requesting shelter for every one woman taken in. The dual problems of the increasing demand for services and chronic inadequate funding impedes both the delivery of existing services and the creation of new services.

Funding from the Federal Crime Victim fund constitutes a small but important percentage of the budget for centers that receive them.

As you will note from the attachment on Arizona Sexual Assault Services, the total amounts of individual grants are small; the grant amount may vary from year to year, and not every program seeking sexual assault victims assistance receives a Federal grant. This is true for every State. Nonetheless, this Federal support has contributed to the overall stability of the entire sexual assault services field.

Since congressional enactment of the 1984 Victims of Crime Act, only one rape crisis center closure has been reported. This is in sharp contract to the 40 percent closure rate prior to 1981. Therefore, we submit that the need for reauthorization of the Victims of Crime Act is clear and we would urge you to act swiftly before the September 30th expiration date of the legislation.

Thank you.

Senator DeConcini. Thank you. Maybe you or Ms. Brown could help me.

Does your organization receive Juvenile Justice funds or any other Federal funds?

Ms. Brown. No, we don't.

Senator DeConcini. Do you receive funds from the State or from Pima County at all directly?

Ms. Brown. Ye, we receive funds from Pima County, from the City of Tucson and also from the Arizona Department of Public Safety.

Senator DeConcini. And do you have any private funds?

Ms. Brown. Yes, a very small amount, maybe about two percent.

Senator DeConcini. Thank you very much.

[Prepared statement follows:]

NNVSA

NATIONAL NETWORK FOR VICTIMS OF SEXUAL ASSAULT

STATEMENT

OF

BETTY ARDUS

ON BEHALF OF THE
NATIONAL NETWORK FOR VICTIMS OF SEXUAL ASSAULT

BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING S.1250

APRIL 25, 1988

P.O. Box 2401, Arlington, Virginia 22202

The National Network for Victims of Sexual Assault is a volunteer nationwide information network comprised of rape crisis centers, states' sexual assault coalitions, a number of commissions and councils on women, some administrators of states' health or criminal justice victim services programs, former victims of sexual assault, and, other individuals and organizations concerned with the public policy aspects of the sexual assault problem. On behalf of this diverse group, I am pleased to appear before you today to express our support for S.1250 generally, and Subtitle H (Victim Compensation and Assistance) specifically.

It is a particular pleasure to address a Congressional Committee whose Chairman and members, such as Arizona Senator Dennis DeConcini, have consistently demonstrated by words and deeds their committment to strengthening the nation's criminal justice system; and, easing the burden of citizens victimized by crime. Under this Committee's able leadership, the Congress has, in recent years, enacted such vital legislation as the 1982 Victim Witness Protection Act, the 1984 Victims of Crime Act, numerous improvements in the Omnibus Crime Control Act of 1968; and, the landmark Sexual Abuse Act of 1986 which brought much-needed reforms to federal criminal law. Your interest, now, in the reauthorization of the Victims of Crime Act is a further demonstration of your ongoing concern for the victims of crime.

This Network supports S.1250 because it reflects a long-term committment by Congress to a Federal and State criminal justice partnership. And, because it reflects a committment to the safety and welfare of American citizens by keeping in place vitally needed states' assistance programs. Appropriately, the legislation targets the limited Federal funds to programs designed to reduce crime, drug abuse,and juvenile delinquency, as well as advance a state-of-the-art criminal justice system, and aid the victims of crime. Moreover, it contains impressive new initiatives to assist state and local agencies, and to strengthen current law by improving the criminal justice system's reponse to domestic and family violence, including the abuse of women, children, and the elderly. The Justice Assistance Act's authorization for data collection and reporting of family violence by the FBI and the Bureau of Justice Statistics recognizes family violence as a priority Law Enforcement Program. This is an appropriate step forward in the criminal justice recognition of, and response to, these heinous offenses.

The importance of the Victims of Crime Act, to be reauthorized under Subtitle H of S.1250, was ably expressed in 1984 Senate floor statements by the current and former Chairmen of this Committee. Senator Strom Thurmond saw the Act as "urgently needed to address the often ignored needs of innocent victims;" while Senator Joseph Biden predicted that the Act "will probably effect more American people than the rest of the [crime] legislation combined." Those of us who are concerned with the welfare and safety of American women and children strongly agree. And, we offer the following as an illustration of the problem upon which this Federal program impacts:

Since enactment of the 1984 Victims of Crime Act, the following data has been released:

- In 1984, 1.9 million incidents of child abuse and neglect were reported to states' child protective services. In 1985, reported incidents increased by 12%, bringing the total to 2.2 million.[1]
- In 1984, 113,000 cases of child sexual abuse were reported to states' child protective services. In 1985, the number increased by 13% to 127,690.[2]
- In 1986, 1,200 deaths occurred as a result of child abuse and neglect.[3]
- Between 1983 and 1986, reported incidents of forcible rape rose 13% from 78,920 to 90,430.[4] In 1986, the Bureau of Justice Statistics set the actual reported and nonreported incidence at 138,490.[5]
- In 1986, 311,000 women and children sought shelter from family violence in the nation's domestic violence shelters. [6]

Because the foregoing is not inclusive of all types of crimes which would fall under the headings of "sexual assault" or "family violence", nor incidents reported to agencies other than those cited, it cannot be viewed as a complete picture of the scope of crimes against American women and children. But, it provides an insight into the extent of the problem which the federal Victims of Crime Act seeks to address.

Nationwide, rape crisis centers are reporting an average 29% increase in demand for victim services between 1986 and 1987, with many reporting as much as a 75% increase in victim service hours. The volume of victims and family members served varies, of course, by state and by the number of rape crisis centers available in each state to serve them. Here, in Arizona, four statewide sexual assault services programs responded to over 5,000 crisis events and/or victim assistance requests in 1987.

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[1] American Humane Association, 1987. "Highlights Official Child Neglect and Abuse Report."
[2] See footnote [1].
[3] National Committee for Prevention of Child Abuse, 1987. "Deaths Due to Maltreatment Soar," Deborah Daro & L. Mitchell.
[4] Federal Bureau of Investigation. 1986 Uniform Crime Reports.
[5] Bureau of Justice Statistics, 1986. Sourcebook of Criminal Justice Statistics.
[6] National Coalition Against Domestic Violence, Dec. 1987. (From an interview in "Washington Watch" by Susan Goen.)

Given estimates that 1 in every 3 women will be raped during their adult lifetime, 3 in every 5 women will be battered by their partners; and that 1 in every 4 girls and 1 in every 10 boys will be sexually abused by the age of 14 years [7], the demand for crime victim assistance will undoubtedly continue to increase at even greater rates over the next decade. The majority of the providers of this assistance are ill-equipped to meet this demand.

At present, only 723 rape crisis centers exist nationwide to meet the needs of these victims (estimated at 267,000 victims of child sexual abuse and forcible rape in 1987 alone), plus the secondary victims, such as parents, spouses, etc. Further, in 1986, inadequately funded domestic violence shelters (approximately 1,200 nationwide) were forced to turn away two women requesting shelter for every one woman taken in. [8] The dual problems of the increasing demand for services and chronic inadequate funding impedes both the delivery of existing services and the creation of new services. For many rape crisis centers this may mean "So much of our energy goes toward seeking funds, that many individuals in need of our assistance may be neglected or denied..."[9] Or, "Our culture and rural isolation have made it difficult to impossible to offer services in areas other than the larger populated counties...[Yet, because this limits the number of assaults] reported to the centers, funding to offer the types of rape crisis services needed have been difficult for centers to obtain."[10] Arizona centers can, no doubt, relate to and sympathize with their sister centers in these other states.

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[7] Women's Council of the State University of Michigan, April, 1988.

[8] See footnote [6].

Funding from the Federal Crime Victims' Fund constitute a small, but important, percentage of the budgets of centers which receive them. As you will note from the attachment on Arizona sexual assault services, the total amounts of individual grants are small, the grant amount may vary from year to year, and not every program serving sexual assault victims receives a federal grant. This is true for every state. Nontheless, this federal support has contributed to the overall stability of the entire sexual assault services field. Since Congressional enactment of the 1984 Victims of Crime Act, only one rape crisis center closure has been reported. This is in sharp contrast to the 40% closure rate prior to 1981. Therefore, we submit that the need for reauthorization of the Victims of Crime Act is clear; and, we would urge you to act swiftly before the September 31st expiration date of the legislation.

I would like to conclude by turning to a more general assessment of the benefits which have been derived from this program by an even broader range of crime victims.

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[9] Ohio Coalition on Sexual Assault, March 1988.
[10] Coalition Against Sexual Assault in North Dakota, July 1987.

The Victims of Crime Act has achieved the desired goal of encouraging states to be more responsive to victims of crime. Since 1984, state and local efforts to address the needs of crime victims have accelerated appreciably. The number of states now offering compensation to victims has risen from 38 to 44 since federal reimbursements became available. Many states have increased their maximum compensation awards, while others have broadened the categories of victims eligible for compensation. Ninety-four percent of the crime victim assistance grants went to community-based public or private sector programs for expanding or maintaining current services; and, six percent was used to create new service programs.

States are increasingly adopting innovative means of increasing revenues to fund compensation and assistance programs, but the rise in demand for victim services means that the future of many victim assistance programs is far from secure. The continued availability of federal support will provide an immediate safety valve for some programs, and reduce the number of victims receiving inadequate services because of inadequate funding of the service providers.

Finally, legislation has been introduced in the House of Representatives which would lift the spending ceiling on the federal Crime Victims Fund, and replace the four-year reauthorization with a permanent authorization. We would lend our support to any similar measures which might be considered by the Senate. We believe the funding mechanism for this particular program lends itself to such a move, and the demonstrated benefits of the program provide justification for a permanent federal/state partnership in crime victim assistance.

Arizona

April 1988

Programs Serving Sexual Assault Victims and funded through the 1984 Victims of Crime Act

FY-87

FY-87 "victim assistance" funding to Arizona: $ 426,000
Number of sexual assault crisis intervention programs: 4 (four)
Number of programs receiving a VCA grant for sexual assault services: 2 (two)

PROGRAM	VCA GRANT?	# SEXUAL ASSAULT VICTIMS SERVED	TYPES OF SERVICE
Tucson Rape Crisis Center P.O. Box 40306 Tucson, ARIZ 85016 (602) 624-7273	$ 18,000 (for one staff person)	291 cases (63 of these: under 18 yrs.; 228 of these: ages 18-55)	o Crisis intervention o Short-term (8-12 wks) therapy Individual, group, family, & support groups o Training of allied professionals o Speakers' Bureau talks
The Center Against Sexual Assault 2211 E. Highland, Suite 100 Phoenix, ARIZ 85016 (602) 956-1163	$30,000 ($15,000 in Fy-88)	5,107 "crisis events"	o Crisis intervention/on-site response o Counselling (in-depth) w/ therapists o Prevention/education for adult and child sexual abuse
Glendale Victim Assistance 5850 W. Glendale Avenue Glendale, ARIZ 85301 (602) 435-4063	[$22,000 for victim advocacy]	Crisis calls: (Sex. asslt not broken down) Escorts: 50 adult 84 child	o Crisis intervention o Escort service to hospital, police & court o Community education
Page Women's Resource Center/ Coconino Community Guidance Center 112 Sixth Avenue Page, ARIZ 86040 (602) 645-8843	No VCA grant	4 (four)	o Crisis intervention for rape & domestic violence victims
Totals	$48,000	5,536	

Senator **DeConcini**. Dr. Young, thank you for being with us. Would you summarize your statement.

STATEMENT OF MARLENE YOUNG, NATIONAL ORGANIZATION FOR VICTIMS ASSISTANCE

Ms. **Young**. Thank you very much. I consider it an honor to be here, particularly because it gives me an opportunity to congratulate you and commend you, Senator DeConcini, on the establishment of one of the finest victim-witness programs in this Nation.

When you were the instigator of the Pima County Victim-Witness program, even then it was a model, and today it is still a model for the rest of the district attorneys in this Nation. Very few of them have the broad-based crisis center programs and services that this program has and we commend you for it.

Senator **DeConcini**. Thank you for those nice statements. But as you know, a number of people developed that with me, Debbie Jacquin being one of them, and many of them have come since, including yourself, and they have developed outstanding programs and made them work.

Ms. **Young**. Well, we appreciate your help and I would also like to take this opportunity to orally invite you later to do that, to come to our conference here in Tucson, Arizona, on September 13th through 17th. We would love to have you meet and greet the rest of our colleagues throughout our country.

Having said that, I would like to concentrate, really, on three very simple things in my testimony: recommendations for reauthorization of the Justice Assistance Act, but this year with appropriated funds and funds of reauthorization of the Victim of Crime Act of 1984. And finally I have a recommendation in that reauthorization of the Justice Assistance Act. There are some changes that should be considered seriously and amendments that should be made.

I speak first to the reauthorization of the Justice Assistance Act. I must say that we were desperately disappointed to see the Justice Assistance Act continued with only a small modicum of funds this last year. We saw some 280 programs that were providing victim assistance to victims and witnesses of crimes and we saw a sharp decrease in services as a result of that defunding. That, to us, was a very, very sad day. But we were also sorrowful because of the decrease in funds for training and technical assistance to those victim programs of all types throughout this Nation.

Prior to that time we had previous grant funds in our organization and I was deeply involved in trying to provide skills and improve services to victims of crimes. In fact, with JJDPA funds, prior to that time we had reached funds to help improve their services and training in the victim services provider to law enforcement officers, prosecutors, judges and the like. And I believe that that kind of training is necessary today because training does not happen just once in a lifetime to make you qualified for a lifetime.

Since 1983 there's been over 1500 separate pieces of State legislation passed in this country that affect the rights of victims of crime. And yet today we have very, very few training programs that will provide a mechanism for implementing that legislation or even to make judges, prosecutors and law enforcement officers aware of its existence.

And so I believe that training should be provided for in the future as it has been in the past.

Secondly, I would underscore the need to reauthorize the Victim of Crime Act, and you just heard the impact of that act. It has been tremendous. It has been successful beyond its wildest dreams. Today it helps to fund some 1500 separate victims assistance programs, from rape, from sexual abuse, to domestic violence, to child abuse. I urge you, in looking at that reauthorization, to consider at least the following three kinds of changes.

Right now there is a current cap on that fund of $110 million and a sunset clause, philosophically NOVA is opposing to both of those concerns. We would like to see the cap removed forever because we believe that criminal funds should be used to help victims of those same kinds of crimes.

We also would appreciate seeing the sunset clause eventually removed forever and that this become a permanent thing for crime victims. However, I say that with some degree of concern on this day because we believe if the sunset clause is removed now and the current priority stays existent that we will see a continuation of what we consider a major inequity.

Currently, as you know, the three priorities in the Victim of Crime Act bill, of the Victim Abuse, Child Victim and Spouses and the like, and let me underscore that, in no way does not support these victims; indeed, they are the essence of our motion as well as other organizations. But what we see in the Victim of Crime Act today with those three priorities, that there are still several very critical groups that are going unserved, and those are survivors of homicide victims and victims of catastrophic trauma, both physical and mental.

And our suggestion in the testimony before you is that some equitable compromise be reached where those kinds of victims can be considered in future priorities. And the compromise is very simple, and that is that you hold fast the three priorities, the sexual assault victims, spouse abuse and child victims; that those monies that are in the fund, some $70 or $80 million that is being distributed today, do not defund any program and do not suggest to the State that they defund those programs, but as additional funds come into that fund, over and above the $80 million, as we reach that or eventually cap the $110 million.

I also ask you to consider to expand the priorities to include those supervisors and those catastrophic physical injury victims because I cannot see looking at a parent of a murdered child and telling them that there are no services for them because we don't consider them a priority.

I would hope that at this time that when we look at the services that I would urge you to look at the victim compensation side and right now consider expanding victim compensation and the guidelines for that so that victims of spouse abuse in all states could be considered for compensation and victims of drunk drivers.

Despite the expansion over the last year there's a number of States that will not compensate victims of family violence under the compensation program for victims of drunk driving.

Well, I would ask you to, in looking at the Victim of Crime Act reauthorization to please reexamine the obligations of the Federal Government to Federal crime victims. A couple of years ago, with the Children Justice Act of 1986, Congress defunded programs for Federal crime victims and I am telling you that American Indian reservations, military installations and families of hostages overseas, that those are Federal crime victims that deserve support.

And those services—and I know that last year there was a major child abuse within the Hopi Nation and there were no funds to help that child abuse case, and I urge you to consider that. And I thank you for listening to my concern.

Senator DECONCINI. Thank you. You have very, very good points. You gave us a lot of insight into some things that I didn't realize we had defunded in that part of the program. I am glad to know about how much Federal funding does for your organization.

Last year, what percentage was that of your total budget?

Ms. YOUNG. Prior to the Justice Assistance Act—that really means the 1986-1987 budget—we received approximately $650,700 for training and technical assistance money through the Justice Assistance Act. As a result of the cuts, it looks to us right now that we will receive this year, although we have received not a penny yet, we expect to receive some $275,000 for training and technical assistance in programs, $250,000 from the Victim of Crime Act and technical assistance effort. That constitutes about 75 percent of our budget, but it constitutes purely our training and technical assistance.

Senator DECONCINI. That's why you put those funds in?

Ms. YOUNG. Exactly. The rest of our budget is spent serving directly victims of crime, 12,000, crimes that are suffered every year from all around the Nation.

Senator DECONCINI. Thank you, Dr. Young.

[Prepared statement follows:]

STATEMENT OF
MARLENE A. YOUNG, PH.D., J.D.
EXECUTIVE DIRECTOR
NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE

BEFORE
SENATE JUDICIARY COMMITTEE
HELD IN
TUCSON, ARIZONA
APRIL 25, 1988

CHAIRED BY
THE HONORABLE DENNIS DeCONCINI

HEARINGS ON S. 1250

Chairman DeConcini, I am Marlene Young. I am appearing here today in my capacity as Executive Director of the National Organization for Victim Assistance, or NOVA. But I am also drawing on my experience as one of millions of crime victims in the United States and one of tens of thousands of victim counselors and advocates.

In all of these roles, I am honored to be with you today. I am particularly pleased because it gives me an opportunity to commend and thank you for your role as an important leader in establishing the victims movement in the United States. The Victim-Witness Program here in Pima County has become a model for the nation and it was your foresight and compassion that made that possible when you established it in 1974.

However, in the interests of time, I would like to give you a summary of my prepared remarks and offer you the full text as a part of the record.

When I first began working with crime victims in 1975, I was struck by both the diversity of criminal violations and the similarity of pain, anguish, and turmoil that most victims experience.

The shock and disbelief of the rape victim was paralleled by the stunned numbness of the elderly burglary victim. The terror in the faces of hostage victims was mirrored by the resigned fright of the spouse abuse victim. The anger and grief of the survivors of murder victims was similar in its anguish to the survivor of incest.

It was that similarity which prompted the few victim advocates and researchers of the early years of the victims movement to band together in an effort to create change for all. Their accomplishments over the last thirteen years have been extraordinary:

Not only are there now tens of thousands victim service providers, over five thousand victim assistance programs, but some fifteen hundred different pieces of legislation have been passed affecting victim rights and services in the states.

Congress has played its part in in this movement in several ways, most profoundly in enacting the Victim and Witness Protection Act of 1982, including in the Justice Assistance Act the option for states to use block grant funds for victim witness programs, and the Victims of Crime Act of 1984.

And the consequences of this federal leadership have been critical. Without the additional funds from VOCA, small as they may be when spread throughout the nation -- $5,000 to one program, $1,200 to another -- local policy makers would not have seen fit to initiate or continue support to struggling programs. Without the training and technical assistance provided to thousands of service providers as a result of the Justice Assistance Act, programs would have been left ill equipped to handle specialized needs of sexual assault victims, domestic violence victims, child victims and the like.

But, while I applaud those advances and celebrate the achievements made on behalf of victims of crime, I am worried about the future. I am worried because I have observed the yearly attempts to invade the Crime Victims Fund by the Office of Management and Budget through suggestions that an administrative cap reduce the amounts available through the fund far below what was authorized and, in some proposals, what was collected. I am worried because this last year Congress saw fit to reauthorize the Justice Assistance Act with only a small fraction of the funds originally appropriated.

And, I am worried because these kinds of budget arguments and legislative battles often seem to force division and strife even within the victims movement, as those who struggle to survive are forced to do so at the sacrifice of others equally or even more needy. That worry was illustrated in the amendment of the Victims of Crime Act in 1986, when the Children's Justice Act was tacked on to support the establishment of statewide task forces on the treatment of child victims of sexual assault. Surely no one could argue in principle that improving the lot of child victims is a worthy goal. However, the painful reality of the eventually enacted amendment was that it sought to help child victims, who were already the beneficiaries of several other federal programs including being a priority under the Victims of Crime Act itself, by withdrawing aid from sorrowfully ignored population -- victims of federal crime -- Native Americans, many of which are victims of child sexual assault themselves; hostages who are victims of crime overseas; victims on military installations; victims in parklands; and so on. As much as I understand the desperation that causes these conflicts, I abhor and worry about their consequences.

And, that is why I am so thankful for a chance to address you this morning. I want to talk to you about three simple things. First, the need for the reauthorization and an adequate appropriate for the Justice Assistance Act; second, the need for the reauthorization of the Victims of Crime Act; and third, some changes in the Victims of Crime Act that I believe are necessary to reduce the struggles, the fragility, and the controversies interfering with effective service to all victims of crime.

First, I believe there is a need for the reauthorization and appropriation for the Justice Assistance Act for two reasons. JAA has helped to establish hundreds of victim assistance programs throughout the United States and it has helped to establish other important criminal justice programs such as crime prevention, career criminal prosecution programs, and a number of programs dealing with drug abuse. But, I think that a more important aspect of the JAA is its support of training and technical assistance in all areas of criminal justice. Under JAA grants, I know that NOVA has provided training to some 15,000 individuals nationwide. That training has included education on investigating and prosecuting child sexual abuse; domestic violence; working with survivors of homicide victims and so forth. And, that training has been provided to law enforcement agencies, prosecutor offices, the judiciary, corrections officers, as well as victim service professionals.

Second, I want to reaffirm our organization's commitment to seeing the reauthorization of the Victims of Crime Act. Perhaps no other act has been responsible for the expansion of victim services and the increased care with which victims are served. While we and others would like to see some of the gaps and problems in the Act cured, make no mistake, the Act has been a success.

Victim compensation awards have increased dramatically: 10 states more than doubled their dollar awards from FY '84 to FY '85, with another 6 states not far behind. Overall, aggregate awards rose 20 percent in FY '85 alone, a trend that is continuing.

The victim assistance grants have had an equally profound effect, with thousands of new staff and new volunteers now aiding tens of thousands more victims nationwide. While statistical data is not yet available to describe the usefulness of VOCA's victim assistance grants, we do have a wealth of human data to give meaning to its effectiveness.

But, I do not want to take your time arguing for the basic value of VOCA. For I do not believe there is opposition to the Act because most of this audience, this Congress and this country do not oppose victims.

But because of the universal support, some say that we should reauthorize VOCA without changes and without review. To me that violates the intent of a sunset clause. I urge you to reauthorize VOCA but I urge you to reauthorize it with care and consideration of the new future.

VOCA is a landmark piece of legislation, but it has serious problems. These problems are particularly clear if we look at the proposals that were first suggested by its high-minded, bi-partisan founders.

I believe that we should look at that legislative history and use it to improve VOCA in a way that provides for a simpler administration and more equitable benefits. Such an improved VOCA can maintain the support it provides to the current priority programs, it can continue to support victim compensation programs, but it can also broaden the reach of both programs so that they achieve a parity in services to all victims of violent crime.

Here are the changes I hope the subcommittee will consider, the first two should be approached together:

First and second, a spending cap was not part of the original conception of VOCA, and it is clear that the President's Task Force envisioned having a one-time-only sunset clause in the statute. In principle we do not believe either in a spending cap, or a sunset clause for VOCA, but we are persuaded that, given the climate of controversy over the priority system grafted on to the Victims of Crime Act at the last moment in 1984, that it would be wiser to retain a sunset clause if the priorities are not expanded and that with that sunset we see a gradual increase in the cap — matching the gradual increase in fines collected.

Our hope is that eventually Congress and the President will agree that the time indeed has come to shed the cap, the sunset, and the priorities in the Crime Victims Fund.

Third, we hope that Congress will re-examine what obligations the Federal government owes to victims of exclusively-Federal crime -- and restore the kind of special assistance program for these victims that the Task Force and VOCA's Congressional sponsors first envisioned.

We who work with the families of those taken hostage abroad have anguished at how little we and others can do to help them.

One should remember that these are victims not only of violations of international decencies but also of United States criminal law. Yet the level of care assumed by the Federal government for these victims is very low.

The same can be said of Americans victimized on certain Federal enclaves within our borders, for example Indian reservations, military bases and our national parks.

While some local programs seek to assist such victims, in most jurisdictions the picture is one of severe and widespread suffering, with no aid and comfort in sight.

There are some difficulties in re-establishing a federal program. But recognizing the difficulties of that job is one thing. Avoiding those difficulties altogether is another thing entirely. We who have been lone supporters of an orphan Federal victims' program will not abandon it now, and hope very much that Congress will not do so either.

My final recommendation for change involve the service priorities attached to the victim assistance grants.

NOVA has always supported the proposition that victims of sexual assault, spouse abuse, and child victims should be a priority for service. That proposition is supported in our publications and our training curricula. And we know, as service providers on a national hotline that victims of these hideous crimes are prominent among the clients whom I, and other NOVA counselors, and our 50 trained volunteers personally work with twenty-four hours a day, day in and day out.

So NOVA does not oppose the service priorities that attach to these victims, what does distress us is that VOCA does not include in service priorities other victims of violence -- The survivors of murder victims, the victims of catastrophic physical injury, victims of violence.

In September, 1986, in Bloomington, Indiana, Ellen Marks became the victim of a particularly vicious sexual assault and murder. Only her torso was found, so her parents had to bury her without her head, hands, or heart.

The four concerned neighbors who discovered Ellen's buried remains -- by the smell it exuded -- were still, almost a year later, in a state of emotional shock. There had been no one there who could help them. All these good friends of Ellen Marks had faced their post-traumatic stresses alone.

Ellen's surviving parents and sister who live in suburban Detroit also were without local service. The only help and comfort they received came long-distance -- from their nephew, who happens also to be my husband, and from a victim advocate in Rockville, Indiana, Betty Jane Spencer.

Betty Jane is a a survivor of homicide as well -- her four boys were murdered in a savage rampage in their home ten years ago.

She is also an excellent victim counselor and the recipient of a modest VOCA subgrant -- but just barely.

Her application for VOCA funding was twice turned down, since the state's VOCA administrators directed most of their funds to programs meeting the Specter Amendment qualifications. Only when they found they had a some money left over -- and only after Betty Jane called on the help of her many admirers in and out of state government -- was her application accepted.

To me, it is a cruel distortion of what Congress set out to create with VOCA when it effectively leaves Ellen Marks' survivors unaided and almost leaves a comprehensive victim service program like Betty Jane Spencer's underfunded.

But the discrepancies in the Act are even more broad in scope than that.

The most common beneficiaries of VOCA's compensation grants are survivors of homicide, victims of aggravated assaults by strangers, rape victims, and, to a much lesser degree, victims of family violence.

On the victim assistance side, the most common beneficiaries are battered women, sexual assault victims, child abuse victims, and, trailing far behind, other victims of violent crime.

Why such inconsistencies? Why should survivors of homicide victims be eligible for help with funeral bills but have no support for crisis and support counseling. Why should victims of spouse abuse be given crisis services and shelter, but be denied compensation funds?

And why do survivors of vehicular homicide victims often given no attention at all?

The answer to all of those questions is that there is no rational answer -- that the discrepancies and distortions built into the statute are there in part due to a last-minute, undebated floor amendment, and in part by oversight.

So it would be ethically remiss of NOVA to urge reauthorization of VOCA without giving voice to the victims who have not yet been heard.

To us, as a matter of principle, all the worst casualties of crime should be covered under VOCA-subsidized compensation programs and should be treated as priority victims under VOCA's victim assistance grants.

How then does one reconcile these two principles? To us, the answer on the victim assistance side is to keep constant for, say, three years, the dollar amounts the states are giving to the existing priority programs, but to direct them to broaden that priority base with any surplus funds that may come in their future VOCA grants.

On the victim compensation side, we suggest that it become a condition of receiving a VOCA grant that the program not discriminate against victims of family violence or the victims of drunk driving and other vehicular crimes.

There may be problems in working out this balance equitably, but they will be far fewer than if Congress simply chooses to retain the imbalance of the past.

Those are my recommendations to you, Senator DeConcini, reauthorize JAA, reauthorize, VOCA, and, while you enact that reauthorization, make the changes that are needed to make VOCA a rhetorical landmark, but a real landmark of equity and equality -- make it consistent and in service to all victims of violence.

Senator, NOVA is a strong and ardent supporter of the Victims of Crime Act. Indeed, since the inception of the idea of a federal fund for crime victims, NOVA's membership has been in the forefront of the struggle to pass and now sustain that legislation.

At no time in the history of its development, its implementation, or its reauthorization has NOVA sought to place VOCA's existence in jeopardy. And we do not seek to do so now.

We believe that the suggestions we offer do not threaten the Act but strengthen it.

NOVA was born out of an understanding of the common bond of victimization -- its pain, turmoil, and heartbreak. It was founded on a dream that comprehensive victims rights and services can and should be an answer of compassion to victims and their survivors. And VOCA, to us, holds out the promise that the understandings and dreams that inspire our work may yet become public policy.

In our own services to victims across the country, we draw no lines that would discriminate by gender, ethnicity, creed, sexual orientation, geography ... or by type of victimization.

We hope that members of this committee will be no less committed to eliminating any vestiges of discrimination in services.

For only when the barriers are removed can we truly say that our national government seeks to provide justice for all -- even the victim.

Thank you for this opportunity to address the Senate Judiciary Committee.

Senator DeConcini. Now we will go to Ms. Dankowski.

STATEMENT OF DARLENE DANKOWSKI, NATIONAL NETWORK FOR RUNAWAY AND HOMELESS YOUTH

Ms. Dankowski. Senator DeConcini, I appreciate this opportunity to testify before you on this very important matter of the reauthorization of the Juvenile Justice and Delinquency Prevention Act. I'm especially gratified to see you take a personal interest in this legislation and bring this issue home to Arizona.

I am here representing Open-INN, Inc., a current provider of shelter for youth in crisis no only in Pima County but in rural Yavapai County, but also as a member of the Western States Youth Services Network and the Arizona Shelter Care Network, and as a spokesperson for the National Network of Runaway and Youth Services.

As a long-standing member of this organization and on behalf of my fellow colleagues working with at-risk youth and their families, I bring before this committee their concerns and recommendations for reauthorization of the JJDPA, Juvenile Justice and Delinquency Prevention Act.

I ask that the attached policy statement and recommendations from the National Network of Runaway and Youth Services be included in the hearing record and duly noted by the members of the committee.

Senator DeConcini. If there's no objection, it will be included.

Ms. Dankowski. As I continue my testimony I will address those issues raised by my colleagues that are most crucial here in Arizona. I feel in a unique position because Open-INN receives both Juvenile Justice and Delinquency Prevention and Runaway and Homeless monies to support shelters both in rural and urban areas of Arizona. Open-INN operates five shelter care facilities, and four of these are in Tucson. As I mentioned, one is in Prescott.

The primary goal of Open-INN is the same as the other 304 federally-funded shelters, that is to reunite the family. Open-INN each year has successfully reunited 75 percent of the youth served with their families. We serve over 1,000 youth per year.

In Arizona we estimate there's around 20,000 runaways per year and there's 48 emergency shelter beds available to runaways or homeless youth that have direct access.

Last year Open-INN was unable to provide shelter for 1,088 youth due to no space available. In Arizona we have our own plight when it comes to caring for our children. Youths commit suicide at a rate 70 percent higher than the national average; 1,000 children in Tucson and Phoenix are homeless. And as a third thing earlier mentioned, Arizona ranks fifty-second in mental health appropriations to receive services.

Many of our youth in crisis in Arizona fall through the cracks. Unless a child is in an identified system there are few State dollars allocated to providing services to these and their families available, especially with runaway and incorrigible youths.

We have developed partnerships between the Federal assistance and local support which is very important, especially in our rural areas.

I have several recommendations that I'll briefly cover. One is the support for the Runaway and Homeless Youth Act appropriations, continue to support basic center grants, coordinated networks, discretionary programs and the Runaway Hotline.

Two is that you support an amendment to the establishment of a new part of the Runaway and Homeless Youth Act to provide transitional living services to homeless youth up to the age of 21, including homeless youth without provision of long-term services to this proposition. This must not be a conditional appropriation that is separate from the legislation currently available for crisis intervention services. Especially in the House of Representatives, HR 1801 includes this amendment. Open-INN has identified this for the past 5 years.

We submit that 30 percent of our runaway youth are throw-away or push-out youth. We have shelters in this county for domestic violence and for the adult homeless. Many of these youths have been adbandoned by uncaring families, schools, communities, child welfare and mental health systems. These youth are unemployable, undereducated, unloved, lost and forgotten. There needs to exist a bridge to successfully transition youth to adulthood.

There are few State dollars for the juvenile delinquency prevention program that place a priority on the allocation of resources for the installation of serious offenders. This is critically important in Arizona, and as you heard earlier, especially with our American Indian population. We have much work yet to be done within the runaway and homesless youth environment and Juvenile Justice Act programs.

In conclusion, I urge the reauthorization of the Juvenile Justice and Delinquency Prevention Act which expires September 30, 1988, and that it must be reauthorized by Congress. Thank you.

Senator DECONCINI. Thank you very much. We appreciate the testimony.

I believe it's estimated that the Federal Government pays about $30 per runaway and homeless youth in the country per year; is that correct?

Ms. DANKOWSKI. Yes, it is.

Senator DECONCINI. That is accurate? That's kind of discouraging, obviously. Do you receive Federal money for your programs here and in Prescott?

Ms. DANKOWSKI. Yes, we receive both Juvenile Justice and money for runaways.

Senator DECONCINI. Do you get local funding as well as Pima County or the city or any place else?

Ms. DANKOWSKI. Yes, a percentage of funds comes from other sources.

Senator DECONCINI. So you get a very small amount?

Ms. DANKOWSKI. Yes.

Senator DECONCINI. What do you use it for in particular, if anything?

Ms. DANKOWSKI. To support or runaway facilities.

Senator DECONCINI. Thank you.

[Prepared statement and attachments follow:]

TESTIMONY of Darlene Dankowski
Committee on the Judiciary
The Honorable Dennis DeConcini
Tucson, Arizona
April 25, 1988

Senator DeConcini and members of the Senate Judiciary Committee, I appreciate this opportunity to testify before you on this very important matter of the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA). I am especially gratified to see you take a personal interest in this legislation and bring this issue home to Arizona.

My name is Darlene Dankowski, and I am here not only representing Open-Inn, Inc., a current provider of shelter for youth in crisis not only in Pima County, but in rural Yavapai County, but also as a member of the Western States Youth Services Network and the Arizona Shelter Care Network, and as a spokesperson for the National Network of Runaway and Youth Services, Inc. As a longstanding member of this organization, and on behalf of my fellow colleagues working with at-risk youth and their families, I bring before this Committee their concerns and recommendations for the reauthorization of JJDPA.

I ask that the attached policy statement and recommendations from the National Network of Runaway and Youth Services, Inc., be included in the hearing record and duly noted by the members of this Committee.

As I continue my testimony I will address those issues raised by my colleagues that are most crucial here in Arizona.

I feel in a unique position to paint the picture of the plight of "youth at risk in Arizona". Open-Inn receives both juvenile justice and delinquency prevention and Runaway and Homeless monies to support shelters both in rural and urban areas of Arizona. Open-Inn operates 5 shelter care facilities licensed for youth between the ages of 8 - 17, both male and female. Four shelters are located in Tucson, and one shelter is in Prescott, with a total of 35 beds. To support the total program budget, monies are also received from various funding sources including United Way, City of Tucson, State of Arizona and private dollars. The primary goal of Open-Inn, as is the goal of the other 304 federally-funded shelters, is to reunite the family. Last year Open-Inn served over 1000 youth utilizing the 35 beds available.

Shelters provide an array of services to youth and their families including:

*Safe & supportive environment
*Emergency shelter for up to 30 days
*Crisis intervention
*Individual, family and group counseling
*Educational Tutoring
*Aftercare/follow-up
*Community referrals

Open-Inn each year has successfully reunited 75% of the youth served with their families.

In Arizona there are an estimated 48 emergency shelter beds available to runaways or homeless youth. Each year estimates of runaway youth approach 20,000. Last year Open-Inn was unable to provide shelter for 1088 youth due to no space available. The response of the Juvenile Justice professional who was desperately trying to place a youth in our shelter was "can't you move them out faster". Runaway youth today are not running to something; they are running from something. Without early responsive intervention, running may become a chronic response to coping with unattended or unresolved problems, especially when there is a history of abuse or sexual molestation.

In Arizona we have our own plight when it comes to caring for our children.

- *Arizona teenagers commit suicide at a rate 70% higher than the national average.
- *1000 children in Phoenix and Tucson are homeless.
- *Arizona ranks 52nd in mental health appropriations.
- *More than 26,500 suspected cases of child abuse were reported statewide in fiscal year 1986 and only 60 percent were probed.

A recent report developed in Arizona by a statewide Mental Health Task Force summed up the situation facing Arizona's children very well. The report was titled "Beat'um Up - Lock'um Up - Give'um Up". In other words, in order for a child to receive services in this state the family needs to separate. It's a system that advocates for families to break-up.

Many of our youth in crisis in Arizona "fall through the cracks". No system wants to take responsibility for the incorrigible or runaway youth. Unless you are in an identified system, there are few state dollars allocated to providing support services to the youth and their families.

It's obvious that we are not reaching all of the runaway youth in Arizona. There are many underserved and unserved areas across the state including our reservation youth.

One of the major issues is the lack of funding. Attempts have been made to diversify our funding and educate ourselves in fundraising, but this is not enough. This year the State of Arizona is projecting 0% increase to service providers and the local United Way is projecting 0-4% reduction in contract monies. Even with the multi-funded base, shelters struggle to adequately support the operations of a 24-hour crisis center. Many of our centers are understaffed and underpaid. Open-Inn experienced a 54% staff turnover in 1987. According to a study by the Child Welfare League of America - adults who care for children earn less on an average than janitors, cleaners and garbage collectors. Staff is the major resource of Runaway centers; 80% of Open-Inn's budget is personnel.

In attempting to generate community support, I can ask the local Kiwanis Club for a refrigerator, but as many groups, they would rather fund equipment or capital expenditures, not personnel.

The single most important resource is our STAFF. Many of our staff work long hours and are drastically underpaid. I heard a story a few months ago about a California Shelter staff person who helped a youth in the shelter; the youth returned only to tell the counselor about his newly acquired job in a fast-food chain. The youth was very excited and proceeded to tell the counselor how much he was paid. The youth was making more than the counselor who aided him.

Last month at Open-Inn we lost two counselors. Both took jobs with government agencies that paid $5-7,000 more a year. Fortunately we were able to hold on to these employees for two years. Each cites the reason for leaving as "the pay was not enough."

Having experience with two different shelters in rural areas, I can cite the increasing difficulty in developing a multi-funding base. Not only are there limited resource alternatives, but staff recruitment is a challenge. This issue is increasingly important for Arizona, given the geographical makeup and the lack of services available to our rural youth.

Arizona currently receives $300,000 of the Runaway and Homeless appropriation for Basic Center Grants. Three agencies currently receive these dollars - Children's Village located in Yuma, Tumbleweed in Phoenix, and Open-Inn in Tucson and Prescott. These dollars pay for approximately 16 beds which are available to runaway and homeless youth statewide. This is simply not adequate.

RECOMMENDATION I

I recommend that 83.5% of the Runaway and Homeless Youth Act appropriations continue to support Basic Center Grants. Remaining appropriations to support coordinated networks, discretionary programs and the Runaway Hotline.

Arizona has especially benefited from the coordinated networking grants. Open-Inn currently subcontracts with Western States Youth Services Network for support to the Arizona Shelter Care Network. Without this support programs would feel additional stress and isolation from each other. Networking has assisted Arizona Shelters in training, fund and program development. This additional resource has given a great deal of support to our program and has enhanced service delivery to our youth and families.

RECOMMENDATION II

The establishment of a new part of the Runaway and Homeless Youth Act to provide transitional living services to homeless youth up to the age of 21. This addition to the Act may be in the form of an amendment to the existing federal Runaway and Homeless Youth Act through the establishment of a new part. There must be an additional appropriation that is separate from the legislation currently available for crisis intervention services.

We often think of the homeless as being over the age of 18. Many of our homeless are actually under the age of 18. It's estimated that 30% of our runaway youth are "throwaway" or "push-out" youth. Many of these youth have been abandoned by uncaring families, schools, communities, child welfare and mental health systems...these youth are unemployable, undereducated, unloved, lost and forgotten. Their day-to-day lives are a matter of survival. Approximately one-third of the young people seen at federally-funded centers report they are "homeless".

In Tucson we have transitional shelters for adult homeless and domestic violence victims, but not for our older youth. This is a high priority for Open-Inn in 1988. A facility has been identified and only partial funding received. This is a wide gap in our service system to our youth. There needs to exist a bridge to successfully transition youth to adulthood. Unless alternatives are developed our youth will continue to be dependent upon the state welfare system, victims of street crime, and continue to fill our already overcrowded prison system.

JUVENILE JUSTICE PROGRAM (Title II)

As Vice-Chairman of the State Advisory Council on Juvenile Justice for seven years under Governor Babbitt's administration, I strongly support the efforts accomplished in this state to deinstitutionalize the status offender. Arizona has had many challenges in this area due to its geographical makeup and the great needs of our Native American population. Many innovative programs have been funded by these dollars, including school resource officers, crisis intervention services, short-term foster homes and shelters and youth and parent self-help groups. There are a few state dollars allocated to a Juvenile Delinquency Prevention program and priority is given to an adult driven prison system. The effectiveness of early intervention with "youth at risk" is no secret. In communities where runaway shelters exist, you often see the highest rates of compliance with JJDP mandates regarding the deinstitutionalization of status offenders.

As with Runaway and Homeless Youth monies, many of these funds are matched with local dollars to provide successful services to youth and their families. This is especially true in our rural communities that have limited resources and scarce financial support.

A continued concern of mine is children being held in adult jails. Arizona law prohibits the commingling of juveniles and adults in these facilities. Due to the geographical distances created by rural communities, separation of children in adult jails is often difficult. Additional dollars and resources need to be allocated in order to achieve full compliance.

Nationwide, recent data estimates 250,000 juveniles are held in adult jails and lockups.

RECOMMENDATION III

Support the development of state legislation and technical assistance to local communities as well as a complete prohibition on the jailing of juveniles in any adult facility of lock-up.

SUMMARY AND CONCLUSION:

The reauthorization of the Juvenile Justice and Delinquency Prevention Act expires September 30, 1988 and must be reauthorized by Congress. Our Nation's Youth and Arizona Youth are suffering. Our young people are affected by many of society's hardships - drug and alcohol abuse/ teenage pregnancy/domestic violence/ homelessness/AIDS, to mention only a few.

The partnership that has developed between federal dollars and locally generated dollars has had tremendous impact and success with our troubled youth and keeping families together. Runaway shelter programs work. Your support has been greatly appreciated as expressed in some letters received from former clients at one runaway shelter:

> "I just want to say thanks for being there or
> I would have been on the street."
> Julie

> "A nice loving home for troubled kids."
> Justin

> "I don't know what I would have done if shelter
> wasn't available"
> Lori

> "It was a time to heal our relationships with
> each other and with our three other children . . ."
> Parent

NATIONAL NETWORK OF RUNAWAY AND YOUTH SERVICES
POSITIONS AND RECOMMENDATIONS
FOR REAUTHORIZATION OF JJDPA

The National Network of Runaway and Youth Services, a membership organization of over 700 community-based youth serving agencies, strongly urges your incorporation of the following changes in the Juvenile Justice and Delinquency Prevention Act during its reauthorization this year. We applaud both the House and the Senate in their efforts to reauthorize the legislation by introducing S.1250 and HR.1801, but believe that the changes suggested by our members are necessary to strengthen the legislation and give it added focus during the next four years. Our members work daily with the juvenile justice systems in this country, and with our nation's runaway and homeless youth. In an effort to meet current needs and provide quality services to these young people and their families, they ask that you consider the following recommendations:

Juvenile Justice Programs (Title II):

1. Remove the provision allowing the valid court order to be used as a back door means of incarcerating status offenders.
   Rationale: One of the primary objectives of the JJDPA is to deinstitutionalize status offenders; the valid court order permits the secure confinement of these young people. These acting-out behaviors are not crimes and should not be treated as such. Appropriate behavior must be encouraged, yet status offenders ought not be jailed because no other resources have been committed for safe alternatives. The answer to repeat status offenders is support services for families and young people, not a valid court order.

2. Place a priority on the allocation of resources for the deinstitutionalization of status offenders.
   Rationale: ~~For~~ a number of years the focus of research and demonstration efforts has been on the serious offender, while

little has been done to encourage states in the effort to assist status offenders and their families. Status offenders account for a large portion of all youth offenders and potential for success with these youth is very high.

3. Oppose all policies which allow for the jailing of juveniles in adult jails or police lock-ups.
   Rationale: This statement simply reinforces the current language that prohibits the incarceration of juveniles in adult jails and lock-ups after December 1988. States should be held to this mandate and supported in their efforts to accomplish this goal.

4. Support efforts to emphasize research priorities in the areas of minority youth, mental health and education.
   Rationale: Preliminary studies indicate that minority youth are being incarcerated at a rate much higher than their arrest rate would dictate. White youth, on the other hand, are being placed in the mental health system for similar offenses. We appear to have a two-tier system and the underlying causes should be examined. Educational opportunities should be given to all youth and incarceration should not be a barrier to an education. States should be encouraged to assure an appropriate education for all youth in their juvenile justice system.

5. Support the implementation of a functional peer review system for discretionary grant proposals.
   Rationale: Establishes a creditable, fair review system for the awarding of grants.

Runaway and Homeless Youth Act (Title III):

1. Continue the funding of coordinated networks and discretionary grant programs at their current funding levels.
   Rationale: Basic center grants have been stretched as far as they can be and the largest share of the appropriations should

be directed toward runaway and homeless youth programs. This still acknowledges the importance of coordinated networks, the National Hotline, need for staff training and model program development.

2. Establish a minimum RHYA state allocation of $100,000 per state and $50,000 per territory, while holding all states harmless. Rationale: Currently, there is no minimum and some states only receive enough funding to partially support one program. An increase of one million dollars in appropriations over the FY 1988 level would allow this minimum to take effect.

3. Support efforts to develop new programs, if existing program allocations are not reduced to accomplish this goal. Rationale: Established programs are cut based on the state allocation formula, when a new center is funded within that state and no new funds are appropriated. We question the logic of this expansion effort, when existing centers may have to cut back on services and staff, thereby reducing the number of youth served.

4. Set a research/discretionary priority to address rural stress and its effect on youth and families. Rationale: Runaway programs in rural areas are seeing the effects of the farm crisis on families and youth. These centers need support to develop models of reaching and assisting displaced farm families.

5. Support an amendment to establish a new part of the RHYA to provide Transitional Living services to homeless youth. Rationale: The act currently includes homeless youth without the provision of any long-term services to this population. To really address the issue of homeless youth, the act should encompass the provision of extended services, beyond the first step of crisis intervention now outlined in the act. The new part of the act should include the following conditions:

(a)....be in the form of amendment of the existing federal Runaway and Homeless Youth Act through the establishment of a new part to such Act;

(b)....must include additional appropriations and be separate from legislation currently available for crisis intervention services. There should be no co-mingling of the funding streams;

(c)....Youth eligible to receive such services should be those youth up to the age of 21:

(d)....should provide all of those services, and perform all of those activities, required of programs currently funded under the Runaway and Homeless Youth Act including: outreach, crisis intervention and emergency shelter all directed at family reunification whenever possible; and

(e)....must provide the following services, either directly or indirectly: extended transitional and/or independent living residential care, interpersonal skill building, educational and job attainment counseling and services, along with access to mental and physical health care.

The National Network is supportive of the Transitional Living Projects for Homeless Youth, now included in the House of Representatives" Bill HR 1801, which meets this criteria and provides long-term assistance to Homeless Youth.

Missing Children's Assistance Act (Title IV):

1. Redefine the term "missing children" to exclude those youth identified as runaways.
   Rationale: Within the service delivery systems of runaways and missing children programs, a need has surfaced to clarify the differences between runaway youth and missing children. Noting that missing children should be identified as parentally and/or stranger abducted.

2. Develop the missing children's service system and adequate funding of agencies providing direct services to families of the missing children.
   Rationale: The Missing Children's programs provide a needed service to the families of missing children and the children themselves. These efforts should be encouraged by the federal government through direct service funding.

3. Disband the Attorney General's Advisory Panel on Missing Children.
   Rationale: This panel has included in their recommendations the classification of runaway youth as disobedient youth in need of protective custody, which conflicts with the premise underlying the entire Runaway and Homeless Youth Act.

4. Establish model and standards for programs providing assistance to families of missing children. These standards and models should be based on five key elements.
   1. community based services
   2. active two-way linkages with other agencies
   3. assessment and treatment of children, youth, and families
   4. inclusion of outreach component
   5. inclusion of aftercare service as a vital program component

Rationale: Families of missing children and missing children, themselves, should be assured quality and professional assistance by the agencies working in this area.

These changes are reflective of our 1988 Resolutions developed this past February at our annual Symposium.

national fund for runaway children
the national network
of Runaway and Youth Services, Inc.
905 - 6th Street, S.W., Suite 411, Washington, D.C. 20024 (202) 488-0739

RESOLUTIONS

Adopted February 1988

(2) RUNAWAY AND HOMELESS YOUTH ACT (RHYA) (Action)

WHEREAS the Runaway Youth Act was originally enacted in 1974 as a response to concern over the growing numbers of youth who leave home without parental permission, and who, while away from home and living on the streets, are vulnerable to exploitation, and

WHEREAS runaway centers established during the past twenty years have consistently opposed the incarceration of this population for their runaway behavior and have developed comprehensive community-based services that meet the needs of these youths and their families, and

WHEREAS RHYA programs, through participation in the establishment of a national database on runaway and homeless youth, have documented the existence of a growing need for such services on behalf of all youth and families, and

WHEREAS this level of need demands the development of new programs and expansion of existing programs, and

WHEREAS the number of basic centers funded by RHYA has increased from 286 to 301 in FY 1987 with no increase in the funding level, and

WHEREAS a large number of existing centers received substantial funding cuts in order to open these new centers, that frequently forces serious reductions in their service capacity, and

WHEREAS the RHYA promotes the networking of runaway centers to maximize the exchange of information and development of quality programs, and

WHEREAS a number of local, state and regional networks of runaway centers and youth programs have emerged to support and enhance these centers.

NOW THEREFORE BE IT RESOLVED that the National Network and its members strongly support and will jointly work with the 100th Congress to reauthorize the RHYA during the second session of this Congress.

BE IT FURTHER RESOLVED that the National Network will work toward a $50 million appropriation for the RHYA and support adequate funding of basic centers.

BE IT FURTHER RESOLVED that the National Network supports continued funding for coordinated networks and discretionary grant programs at current funding levels.

BE IT FURTHER RESOLVED that the National Network and its members actively advocate for a minimum RHYA allocation of $100,000 for all states and $50,000 minimum for territories, holding all remaining states harmless.

BE IT FURTHER RESOLVED that the National Network supports the development of new services for runaway youth, particularly in unserved and underserved areas. However, the National Network opposes further reductions to existing programs to do so, which would strip them of needed resources to provide effective services and force them to serve fewer clients.

BE IT FURTHER RESOLVED that the National Network supports the use of multi-year funding which includes a fair and equitable distribution of monies between new and continuation grantees, as the funding base has the potential to fluctuate. Furthermore, the National Network supports the continuation of a competitive application process at the national level.

(3) FREQUENT RUNAWAY BEHAVIOR (Action)

WHEREAS the National Network recognizes that there are a number of youths who frequently run from home, placements and locked facilities, and

WHEREAS many of these youth come from situations characterized by child abuse, neglect and/or other complex problems, and

WHEREAS the majority of these youth had their first contact with a state agency, including the courts as a result of this abuse, and

WHEREAS only 25 to 30 percent of the chronic status offenders go on to commit any other criminal offense. While the rest either commit no crime or another status offense, and

WHEREAS there is no data to support the assumption that locking-up a status offender deters recidivism nor does it assist in any manner, other than to postpone possible delinquency....if that is to happen at all, and

WHEREAS many of the runaways who have become "Street Youth" are mixed offenders and there exists the possibility of detaining the youth on a charge other than a status offense, and

WHEREAS the community-based open alternatives to secure detention are working to assist this population.

NOW THEREFORE BE IT RESOLVED that the National Network opposes any incarceration of this population and supports the continuous and renewed efforts of community-based organizations to ensure that service delivery expands to meet the needs of these youth, and promotes public awareness on the complexity of the needs and issues facing these young people.

(5) JUVENILE JUSTICE (Action)

WHEREAS the National Network's positions regarding the Juvenile Justice and Delinquency Prevention Act (JJDPA) are:

The Office of Juvenile Justice and Delinquency Prevention should be preserved as a separate entity from other Department of Justice programs with a presidential-appointed Director in order to provide federal leadership and maintain individual accountability with strong congressional oversight on juvenile justice issues.

The National Network of Runaway and Youth Services (NNRYS) supports the Juvenile Justice and Delinquency Prevention Act at a funding level of $100 million, and opposes any administrative actions to curtail the expenditure of these funds through rescission or transfer to other program areas in the least restrictive setting.

NNRYS is opposed to efforts to use any JJDPA funds for biomedical research or behavior control experiments and continues to support direct treatment services to troubled youth and their families.

NNRYS sees a priority in federal leadership and resource allocation toward the nationwide deinstitutionalization of status offenders.

NNRYS opposes all policies and funding which allow for the incarceration of status offenders under any circumstance.

NNRYS rejects the model juvenile code developed by the American Legislative Exchange Council with the Rose Institute which:

(a) does not meet the standards set by the Department of Justice;

(b) does not include dependent child cases, which constitutes the overriding majority of juvenile court time and concern;

(c) calls for pre-trial detention and does not clearly address the rationale "for probable cause" to do so;

(d) appears to be in conflict with the due process rights of juveniles; and

(e) calls status offenders "disobedient children" and makes grave errors in factual material regarding these young people, and establishes a system which is sure to fail young people, their families and communities.

NNRYS opposes all policies which allow the jailing of juveniles in adult facilities, including police lock-ups.

NNRYS supports policies which insure that juvenile offenders receive services separate and apart from the acult system. Additional services and attention must focus on providing adequate and rehabilitative programming to the serious offender in the most appropriate and least restrictive setting.

Recognizing that the overall goal of the JJDPA is to secure justice for young citizens and to reduce juvenile crime, NNRYS supports policies which emphasize diversion, the provision of community-based alternatives and a full range of effective preventive services which must include service to those youth not currently involved with the juvenile justice system.

NNRYS calls for state and local policies and practices which ensure that the legal rights of youth are protected.

NOW BE IT THEREFORE RESOLVED that the National Network supports the reauthorization of the JJDPA and its titles.

AND BE IT FURTHER RESOLVED that the National Network will actively pursue this reauthorization including possible amendments on the issues of minority youth, mental health, education, and resesarch along with clarifying priority areas and the exploration of a functional peer review system.

(6) JAIL REMOVAL (Action)

WHEREAS America's jails are flooded with more inmates than can be handled safely--much less with any regard for rehabilitation or concern for the human dignity of the imprisoned or of the staff working with them, and

WHEREAS the National Sheriff's Association reported in a 1982 study the following statistics for jails in this country:

-- 86% did not have adult basic education
-- 84% did not have life skill courses
-- 65% did not have recreational facilities
-- 65% did not have psychiatric services
-- 59% did not have medical screenings
-- 62% did not have substance abuse counseling

WHEREAS young people are often placed in jails despite the dangers to the young person and despite the restriction against such jailing for states participating in the JJDPA, and

WHEREAS these youth are in crisis and incarceration in a jail setting exacerbates the situation, as can be demonstrated by the high suicide rate of incarcerated juveniles, which is four times greater than found in the "normal" population (Atlas 1986). The National Coalition for Jail Removal estimates that 1,500 juveniles attempt suicide in jails each year, and

WHEREAS the 1984 amendments to the JJDPA of 1974 established specific criteria and conditions under which juveniles may be detained in an adult jail, and

WHEREAS the 1984 Amendments to the JJDPA extended until December 1988, the requirements for states to achieve full compliance with jail removal, and

WHEREAS 40 states are not in full compliance as of this time, although one-half are at 75 percent compliance, and

WHEREAS many states have adopted legislation to ensure the removal of juveniles from adult jails through various means including the development of juvenile detention facilities, the transportation of youth in rural areas to the nearest secure juvenile facility, the implementation of screening criteria to determine the use of secure confinement and the development of due process procedures related to probable cause, the assignment of legal counsel and time limitations for the detention of juveniles, and

WHEREAS the most recent data available estimates that nationally 250,000 juveniles are held in adult jails and lockups, not including a substantial number of juveniles held less than 24 hours during a one-year period, and

WHEREAS young people are held in adult jails in rural areas because alternative services and shelter are not available.

NOW BE IT THEREFORE RESOLVED that the National Network supports the development of state legislation and technical assistance to local communities as well as a complete prohibition on the jailing of juveniles in any adult facility and police lock-ups.

BE IT FURTHER RESOLVED that the National Network supports the funding in FY 1988 of all participating states who are working toward compliance with the 1988 deadline on removal of juveniles from adult jails.

AND BE IT FURTHER RESOLVED that the National Network support the expansion of runaway and youth services to currently underserved rural areas.

(10) MISSING CHILDREN'S SERVICES (Action)

WHEREAS there exists within both the runaway service system and the missing children service system the desire to clarify the differences between runaway youth and missing children in order to include only those children who are identified as parentally abducted and/or stranger abducted, and

WHEREAS cooperative relationships between the runaway services system and missing childrens service systems are essential in order to pro-actively address the children who are missing today, many of whom will become tomorrow's runaway youth unless there exists adequate and effective intervention, and

WHEREAS the NNRYS supports the development and empowerment of existing missing children service agencies, and

WHEREAS proposed funding priorities by the OJJDP do not currently include funding for existing direct services for missing children, and

WHEREAS the NNRYS recognizes the need for such services to the families of missing children and thereby, the children themselves, and

WHEREAS the Attorney General's Advisory Board on Missing Children has not undertaken to support the cause of runaway youth, but rather has relegated these teens to the status of disobedient children in need of protective custody.

NOW BE THEREFORE RESOLVED that the NNRYS supports the re-definition of the term "missing children" to exclude those youths identified as runaways.

BE IT FURTHER RESOLVED that the NNRYS encourages the development of the missing children service system.

BE IT FURTHER RESOLVED that the NNRYS supports adequate funding of agencies that provide direct services to families of the missing.

BE IT FURTHER RESOLVED that the NNRYS encourages the disbanding of the Attorney General's Advisory Panel on Missing Children.

The NNRYS reaffirms the need for the devleopment of standards and models to be employed in establishing missing children programs and in seeking appropriate staff training and professional requirements. These standards and models should be based on five key elements:

1. Community-based services;

2. Active two-way linkage with other agencies;

3. Inclusion of outreach components;

4. Assessment and treatment of children, youth, and families; and

5. Inclusion of after-care services as a vital program component.

BE IT FURTHER RESOLVED that the National Network support the empowerment and development of existing direct service agencies. The National Network shall continue to develop and maintain effective working relationships with missing children's programs operating on a national level.

(23) HOMELESS AND STREET YOUTH (Action)

WHEREAS the members of the National Network have long been aware of the needs and problems of homeless and street youth and have developed and implemented effective programs for these young persons, and

WHEREAS the fiscal year 1985 report on homeless and street youth under the Runaway and Homeless Youth Act place the number of such youth in excess of 500,000, and

WHEREAS legislation has been introduced in the 100th Congress to amend the federal Runaway and Homeless Youth Act to strengthen and expand federal support and leadership in services to homeless youth, and

WHEREAS the economic and vocational climate for such youth in both urban and rural communities continues to insure that these tragic numbers shall increase, and

WHEREAS homeless and street youth experience direct exposure to significant physical, emotional and mental health risks, and

WHEREAS there does not exist a reliable and systematic methodology for collecting and interpreting data on such youth on a national basis.

THEREFORE BE IT RESOLVED that the National Network advocate for the rights and needs of this population, including those homeless and street youth ages 18-21, through active support of the development, implementation and maintenance of information and support programs which address the needs of homeless and street youth, and the development and utilization of a comprehensive data collection effort to document specific needs and guide long-range planning for this population, and

BE IT FURTHER RESOLVED that the National Network will advocate for federal legislation to strengthen and expand federal support and leadership in services to homeless youth seeking legislation which embodies the following principles:

1. Such homeless youth legislation may be in the form of amendment of the existing federal Runaway and Homeless Youth Act through the establishment of a new Part to such Act;

2. Such homeless youth legislation must include additional appropriations and be separate from legislation currently available for crisis intervention services. There should be no co-mingling of the funding streams;

3. Youth eligible to receive such services should be those youth up to the age of 21; and

4. Programs funded under such homeless youth legislation should provide all of those services, and perform all of those activities, required of programs currently funded under the Runaway and Homeless Youth Act, including: outreach, crisis intervention and emergency shelter all directed at family reunification whenever possible. Additionally, such programs funded under homeless youth legislation must provide the following services, either directly or indirectly: extended transitional and/or independent living residential care, interpersonal skill building, educational and job attainment counseling and services, along with access to mental and physical health care.

AND BE IT FURTHER RESOLVED that the National Network will simultaneously advocate for federal funding and leadership in reversing the collapse of public child welfare and mental health services which have become so severely and chronically limited for adolescents as to, in large part, be at the root of the current crisis in youth homelessness in this nation.

Senator DECONCINI. Mr. Schoeller, we would gladly hear from you.

STATEMENT OF ARNE SCHOELLER, NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

Mr. SCHOELLER. Thank you for being with use here today. Just very briefly.

The National Council of Juvenile and Family Court Judges is the oldest and probably the largest national membership group of judges, about 2,500 in all States. We've been in existence for 51 years. While we have a number of activities—and I left some printed material in addition to the statement—our main rationale is the training of judges and others in the judicial system and technical assistance goes along with that.

I have discussed in written statements and wish to commend your leadership with respect to the legislation, the new drug legislation that you received recently and introduced. And we discussed that at length in the written statement and I'd like you to take more time later to look at it.

But I'd like to confine my brief remarks here to discussing again the juvenile justice system legislation in which we have our concern.

Senator DECONCINI. Yes.

Mr. SCHOELLER. The only justification for the Federal Juvenile Justice Act is to provide Federal leadership, and in some cases that can only be done at the Federal level. You have programs such as I believe you're personally familiar with, and the sort of thing that couldn't happen except with Federal money.

Similarly, with their programs as highly specialized training and technical assistance for judges, prosecutors and others that we put in. We have a research center in Pittsburgh where they analyze statistics of what's going on nationwide with kids when they came into court, delinquent kids. Only the Federal Government can provide those sorts of things.

Now, the reason we've concerned——

Senator DECONCINI. Is that fedeally funded by the government or is that a function, a Senate statistic analysis, for instance? Where else would you get it?

Mr. SCHOELLER. Training technical assistance at this point is the sort of thing we do, the demonstrations, those sorts of things that Bob Jonti (phonetic) and others do. And we've only learned in the last week, unfortunately, I'm unhappy to report, though it may not be coming over from the House, the reauthorization bill is here that, frankly, our organization cannot support and I think that's true with a lot of the other national organizations, including the National District Attorneys with which we work closely, as you may know, and other groups. And that is it in a nutshell. And that, in a nutshell, is the problem with the House bill. There's parts of it that we support, for example, title III, but essentially with regard to the basic organizational justice program, the House bill, in our estimation, pretty much abrogates the necessary Federal leadership role that I have alluded to.

And it not only drastically cuts the discretionary funding but in various ways restricts the scope of that funding and there's some very extensive studies that the House wouldn't undertake and there are no—there's nothing in the testimony to back up those needs to some of those problems with that bill. And we would hope eventually there is some changes that we would support but we would very strongly recommend that the Senate eventually reauthorize the Juvenile Justice legislation as it now is, a straight reauthorization. There are some changes needed, but where radical changes are proposed, particularly in shifting around the various accounts of money, we have some real problems. I'll stop there.

Thank you.

Senator DECONCINI. Did you present testimony at the House hearing?

Mr. SCHOELLER. Yes, sir, we did when we were down in Washington recently and, nevertheless, we were, as I say, shocked and surprised with the content of some of that.

Senator DECONCINI. Do you have an analysis of the bill that you would like to share?

Mr. SCHOELLER. Yes, sir, we would certainly get one and we have already.

Senator DECONCINI. I'd like to see it.

Mr. SCHOELLER. It's very new, I only saw it once.

Senator DECONCINI. If you'd send that either to Mr. Biden or Tim Carlsgaard, we'd like to see it.

Mr. SCHOELLER. We surely will.

Senator DECONCINI. What corrective measures we might make? I'm familiar with your organization, Mr. Schoeller, and you have done some outstanding work, and I have talked to a lot of the juveniles around the country and they look to you as their only source for some statistical data on what is happening. And we're not always the ones to hear.

Mr. SCHOELLER. The messenger isn't always that you have to have the statistics to see how good or how badly you're doing.

Senator DECONCINI. Thank you very much. You've been very helpful to us today on the reauthorization and some of the other programs that function well.

I want the record to show my appreciation of Tim Carlsgaard and Barry Dill and Jannette Raptiz of my office for their help in putting this together.

We will stand at recess subject to call of the chairman.

[Prepared statement follows:]

COUNCIL OF JUVENILE
NATIONAL COUNCIL AND FAMILY
COURT JUDGES
ORGANIZED MAY 22, 1937

NATIONAL COUNCIL OF JUVENILE AND
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Testimony of the

National Council of Juvenile

and

Family Court Judges

before the

Senate Judiciary Committee Hearing On

S. 1250

Tucson, Arizona

April 25, 1988

Senator DeConcini, the National Council of Juvenile and Family Court Judges appreciates the opportunity to appear before you today. I am Arne Schoeller, Associate Director for Planning of the National Council and work with its Legislation and Governmental Relations Committee.

The National Council is a membership organization comprised or approximately 2,500 juvenile and family court judges and key court related personnel. Our members come from every state and we have affiliated 17 state associations. We are 51 years old this year, were formerly affiliated with the American Bar Association in Chicago, but since 1969 have been located at the University of Nevada/Reno, where our primary activity is the National College of Juvenile and Family Law which each year conducts programs for judges, court personnel and volunteers, lawyers, prosecutors, etc., not only at the University, but also on the road in just about every state in the Union.

Senator, I am sure you will be interested that, on May 13th a very illustrious daughter of Arizona, Justice Sandra Day O'Connor, will be the keynote speaker at ceremonies attendant to the groundbreaking for the new $4 million facility at the University which will provide expanded educational and training facilities for the nation's judges and others and house the National Council's Reno staff of about 35.

I would be remiss here in not thanking you and other members or former members of the Judiciary Committee, including Senators Biden, Thurmond and Kennedy and former member Paul Laxalt for the 1984 Challenge Grant to the University of $1.5 million which has helped make this new facility possible. I hasten to add that all the rest of the funding has been raised by the University and the National Council in the private sector from business, foundation and individual sources.

This statement is divided into several parts.

I. Support for Title II Subtitle A of S. 1250, Reauthorization of the Juvenile Justice and Delinquency Act.

The National Council testified in 1973 on behalf of this original legislation, has supported its several reauthorizations, and more particularly every year through its members in every state has supported the appropriations for the agency.

We have since 1981 vigorously argued with the current administration on its attempts to eliminate funding for the agency. It is to the Congress' credit and particularly to leaders such as yourself, that this small but vital federal program has been allowed to continue.

The National Council believes that the Act has proved beneficial, helpful to the system, and is generally cost effective. The admirable aspirations of the Act, to which the National Council subscribes, have contributed to humane and beneficial reforms in juvenile justice. Viable alternatives for traditional means of dealing with some troubled youth and their families have been developed. A greater range of dispositional alternatives for adjudicated delinquents have been identified and successfully demonstrated in many communities.

The administration's notion that the Act's purposes have been accomplished and the agency can now be disbanded is short sighted. For example, unfortunately, many of the findings of the 1984 Reauthorization remain true today. While the National Council does not subscribe to the idea that the Juvenile Justice System is a failure or the juvenile courts ineffective, it unfortunately still remains true that in many communities, especially many of our largest and many of our poorest, courts are overcrowded, facilities, programs and resources inadequate, staff untrained.

Federal Leadership Needed

This program, though modest, represents the **only federal initiative** in the area of Juvenile Justice, which is, of course and should remain, primarily a state and local concern. Its continuation can only be justified if it examplifies a federal leadership role as set out in the original 1974 legislation as subsequently amended. Such role should focus on systemic improvement and specifically on those functions which can best be performed (and in many cases only be performed) at the federal level --- provision of specialized training; technical assistance; practical, objective cost effective research and dissemination of its results, and demonstrations of programs that work. Only the federal government can effectively collect, analyze and disseminate national statistics on what is actually happening to children in the system, what trends are emerging, etc.

Such activities so prominently featured in the original legislation can only be carried out through the national discretionary programs which, if properly conceived and conducted, are of direct benefit to states and localities.

The programs for which the National Council currently receives discretionary funding meet this criteria. For example:

- **Training of Court and Court-Related Personnel:** With rare exceptions, we know of no expenditure of state (formula) funds under the Act for this purpose. Our College is the national provider of these services and is largely funded by OJJDP. Not only do judges and others come to our national and regional programs in Reno and elsewhere, but we are modestly subsidized by the agency to assist states in their judicial training programs through planning, providing faculty, recommending expert speakers, etc.

- **Technical and Informational Assistance for Courts and Related Agencies:** All such services we provide are provided to states and local jurisdictions.
- **Statistical Analysis:** The courts report their information to our Research Center. We analyse it and, when published annually, they can see how they compare with other jurisdictions on such matters as severity of sentences for given offenses and number of cases transferred to adult criminal courts, etc.
- **Special Programs:** OJJDP has funded us through a national initiative to keep abused and neglected children from "drifting" in foster care, providing services to reunite them with parents if possible; if not, to terminate parental rights and place those children for adoption as soon as possible. Currently we are passing $2 million dollars of OJJDP Discretionary funds **directly through to the states** for this purpose. For example, Arizona is receiving $26,000, California $206,000, etc.

The bottom line is that the types of discretionary programs we have outlined and many others of direct relevance to system improvement are a vital part of the federal leadership role in juvenile justice. Without these types of programs, inherently by their nature national in scope, there can be little or no federal leadership.

Straight Reauthorization, Not House Bill

In reauthorizing the Act we believe the current Act's balance of distribution of funds as between the several discretionary accounts and between the state "formula (block grant)" funds and the discretionary funding should be maintained as is.

We strongly support the "straight reauthorization" of this act as contained in Title II, Subtitle A of S. 1250. I stress the "straight reauthorization" because, apparently the House is passing a reauthorization bill which essentially would abrogate the federal leadership role through drastically reducing the scope and funding of national programs in favor of a juvenile justice revenue sharing program. For example, while the House bill would leave on the books the purposes of the Act with regard to training and education for persons in the system, technical assistance, statistical collection and analysis and related national programs, it would not require, as the current Act does, that a set percentage, or indeed any amount, of each year's appropriation be expended for these national leadership purposes. Yet, it would require that certain types of programs which may be very desirable in themselves, but which have little to do with systemic improvement, such as civics education for public school children, be funded out of drastically reduced discretionary funds every year.

The House bill also contains interesting provisions such as a requirement that Comptroller General of the United States conduct a two year study and report to Congress on every order issued by a judge or judicial officer in the United States since January 1, 1984 which has resulted in the detention for **any** period of time in any secure facility of any person less than 18 years of age!

Jail Removal

The National Council supported the addition of the Jail Removal mandate to the Act in 1980 and in 1981 called for greater federal and state resources to be devoted to this problem.

In those comparatively few cases where it is necessary to detain children in secure facilities, juvenile and family court judges use local or regional detention facilities exclusively for juveniles. Those children who are placed in local adult jails or lockups, a practice the National Council has always deplored, most often are so placed for violation of traffic laws or municipal ordinances (re minor shoplifting, etc.) by local municipal judges or justices of the peace who are not part of state court systems as most juvenile and family courts now are. Traffic violations do not come within the jurisdiction of juvenile and family courts in most states.

Most such traffic and local ordinance violations do not warrant incarcerations of juvenile offenders; however, in such rare cases where it may be necessary (DUI and juvenile is picked up at night far away from his/her home), detention should be only in special juvenile detention facilities, a foster home with persons specially trained to deal with juvenile detox situations, or a medical facility. We have long subscribed to this position and have advocated it for many years in appropriate training programs involving law enforcement and juvenile detention as well as judges, prosecutors and court intake and probation personnel.

Much of the motivation for the House reauthorization bill which guts the National discretionary programs stems from a desire to provide those 20 or so states not in compliance with the 1980 Jail Removal Mandate of the Act with additional Block Grant funds in the hopes that this will facilitate their compliance.

There is no assurance that states which might receive such additional funds would spend them on jail removal and no requirement that they do so. Indeed, analysis of state spending under the Act since 1981 reveals that little has been spent for this purpose, and that **most of the states not now in compliance with the 1980 mandate did not address this problem with their 81-86 funds. In fact, more has been accomplished in these states on jail removal through federal technical assistance and use of $3 million in Discretionary grants made specifically for this purpose to the problem states in '87 than was ever accomplished by them despite the $85 plus million they received in block grants for the six years ending in '86.**

Under the misguided House reauthorization bill in this instance, the agency would be stripped of discretionary and technical assistance funds it could apply specifically for this purpose specifically to non-complying states, while there is no assurance that those states would apply increased block grant funds to their jail removal problem. Also, it can be argued that the House bill grants unwarranted leniency and extra years to the noncomplying states which in any case will result in the unlawful or inappropriate incarceration of many thousands of children in these states until 1993. Most states (including Arizona) have addressed and solved this problem through appropriate state legislative and local action.

I should add here that, as the word gets out about the content of the House Bill, many other national organizations interested in the reauthorization of this legislation, not just the judges, are appalled at what the House is doing. These include such groups as the Boys Clubs of America, the National District Attorneys Association, Girl Scouts and several prestigious universities and research organizations expert in the field. As is the case with our organization, **they are urging a straight "as is" reauthorization,** not the House approach. I am sure these and other groups will be conveying their own message to this effect to your Committee members as well as to their Representatives in the House.

II. Support of Title II, Subtitles B and C of S. 1250, Reauthorization of the Runaway and Homeless Youth and Missing Children's Assistance Acts

The National Council supported original enactment of both these Acts and supports reauthorization of both. Specifically, with regard to the Runaway and Homeless Youth Act, we support in this instance the language of the upcoming House Bill (H.R. 1801 as amended).

Because of this Act, many children in crisis who once found danger and violence on the streets can now find safety, understanding, and guidance at shelters across the nation. The dedicated professionals who staff these shelters have helped many children regain their self-esteem and take control of their lives.

There is no question that runaway shelters help to rebuild family relationships and help children in crisis to address their problems directly and to learn how to choose their own futures. Over one million children run away each year, yet almost 80% of those served by shelters return to their families, are placed in foster homes, or are placed in independent living programs.

Today's troubled youth have multiple needs, and existing runaway shelters are being asked to provide diverse services with limited budgets. Shelters across the country report:

- Increased numbers of youth who have been physically or sexually abused;
- more youth with serious mental health problems;
- a growing number of chronically dysfunctional families;
- more substance abuse by youth and families; and
- more youth at higher risk for suicide.

Before the needs of these youth can be adequately addressed, further investment is needed for basic shelter services. According to the U.S. Department of Health and Human Services, the Act serves only about one-fourth of those children in need of shelter and other services. While many shelters have been able to acquire supplemental state and local funding, others exist on shoestring budgets, a difficult task given the changing needs of their clients.

Despite the obvious success of these programs and the need for more shelters, the Administration for the seventh consecutive year has recommended that this Act as well as the Juvenile Justice and Delinquency Act be zeroed out in the fiscal 1989 budget.

In addition to restoring these funds, Congress should also focus on another serious problem facing runaway shelters. There is clearly a need for more shelters across the country, but under current law new facilities would be funded at the expense of existent shelters' already strained budgets.

Congress and the Administration must find wasy to ensure that children in need receive shelter and assistance. Given the limited funds available, this can best be accomplished by targeting at least 90% of the funds for basic shelter grants as the House Reauthorization Bill provides. Remaining funds would continue to be used for the important research and demonstration projects that are needed to help service providers respond to the changing needs of their clients.

III Support of Title IV of S. 1250, Reauthorization of the State justice Institute Act

This small but vital program to provide modest assistance to state and local courts only became operational in 1987 due to the Administration's long delay in implementing the legislation.

The National Council believes this federally chartered corporation under the direction of an eleven member board including six state judges has gotten off to a good start and that the Act deserves reauthorization as provided for in S. 1250, Title IV.

A prominent member of the your Committee, Senator Howell Helfin, former Chief Justice of the Alabama Supreme Court, has championed this legislation on behalf of the state courts, and a most distinguished long time member of the Arizona Supreme Court, James Duke Cameron, is one of the original board members of the Institute.

IV. Support for Title III, Subtitles A, B and H: Reauthorization of the Justice Assistance Act, Strengthening Amendment Contained in Sec. 312 Re Domestic Violence, Etc.; and Extension of the Victims of Crime Act 1984 Amendments Through 1992.

The National Council supported the original legislation with respect to Subtitles A and H and believes now that they should be reauthorized or extended through FY 1992.

We also support Subtitle B which would strengthen the criminal (and juvenile) justice system's response to domestic violence cases, especially serious child abuse cases, all of which come to the family court with respect to protection of abused children. There continues to be a need for better coordination of these cases as between the family court which is protecting the child victim and the criminal court in which prosecution of the alleged perpetrator (often a family member) takes place.

V. Discussion of S. 2205, the Proposed Omnibus Antidrug Abuse Act of 1988 and of Title I (Drug Law Enforcement) of S. 1250 From the Perspective of Juvenile Courts

Senator DeConcini, the National Council wants to go on record in applauding your outstanding leadership in conceptualizing and introducing S. 2205, and in already having the support as co-sponsors of over 65 Senators. We hope that legislation along these lines can be passed and enacted into law this year. It is vitally needed to augment and strengthen the 1986 legisltion and programs. The resources that would be committed in the area with which we are familiar, essentially domestic -- prevention, treatment, school, high risk youth, etc., as well as law enforcement, prosecution, adjudication, corrections, etc., are appropriate and needed.

Juvenile courts like criminal courts are increasingly being inundated with drug related cases, especially in the largest urban areas where much of our membership resides. It is appropriate that many juveniles apprehended as members of increasingly sophisticated youth gangs (many now operating interstate) engaging in the marketing (and even production) of illegal drugs be prosecuted as adults in criminal court. However, many -- the younger, the less sophisticated, the unarmed, the lookouts and hangers on -- will remain in the juvenile court, which must deal with them, hopefully in a rehabilitative manner. These courts also are and should become more involved in community gang prevention efforts, particularly with regard to younger children.

But, the youth gang member dealing in drugs is only the tip of the iceberg so far as juvenile and family courts are concerned.

A year ago the National Council surveyed almost 300 courts and the judges responded to the effect that drugs and/or alcohol are a **key underlying factor in 60 - 90% of the cases they see,** not just delinquency cases, but also dependent, neglected and abused children cases, runaway and homeless youth cases, family violence cases, etc. In other words, the child may be before the court for shoplifting, car theft, as abused or sexually abused, as a chronic truant or runaway, for prostitution, etc., **not for a drug offense, but drug/alcohol use or abuse by the child or in the family is really what's involved.**

Juvenile and family courts, as they proceed to become more sensitive to this pervasive problem, must distinguish among the various levels of experimentation, use, abuse and often dependency and addiction. They must participate in the development of and provision of sanctions, services and treatment programs and other community resources.

But, whether our children are "merely" experimenting or whether they are dependent or addicted to one or more substances, **there cannot be a distinction with regard to the laws of all fifty states.** The use of alcohol -- up to the age of 21 in almost all the states -- **is illegal.** Use of other illicit substances by adults is a crime. For a child, it is sufficient reason under the law for a charge of delinquency, or lesser offense, within the juvenile justice system.

It is no understatement to state that the law of 50 states clearly have not prevailed. They have not -- by themselves -- prevented our youth from using and abusing psychoactive drugs and alcohol.

There is a more complex and less recognized problem which most of our justice system -- law enforcement, prosecutors and courts -- have not faced up to:

> **Ignoring the law is allowing substance abuse to destroy the fabric of the American family.**

By failing to emphasize accountability, by failing to detain, test and assess, prosecute, adjudicate and provide appropriate sanctions, service and treatment, those sworn to uphold the law are contributing to the disintegration of families.

In the name of having to attend to "more important" offenses, to intervene in more obvious or pressing problems, to adjudicate already crowded dockets, our courts are forsaking an opportunity to provide not only appropriate "justice," but also as within their powers, to mandate treatment, services and other remedies so desperately needed by those children-at-risk, the children who come, or should come, before our juvenile courts for a disposition.

Beyond the clear duty to enforce laws against the use of alcohol and drugs by children, juvenile and family courts must have clear authority to order appropriate sanctions or services or treatment.

When a child is detained -- for an alcohol or substance violation or, more commonly, for another offense which is connected with substance abuse, there should be in place a mechanism to assess the seriousness of the child's involvement. Such an assessment would provide the information for court services or other service agencies to more appropriately respond to the child's behavior and needs. The level of abuse, or the particularly young age of the child, then will determine the sanction, service or treatment to be provided. The assessment should also focus on the child's family. Do the parents abuse drugs or alcohol? Is the child's offense or behavior connected with family shortcomings? How can the court order, or otherwise involve, the parents in assuring the best interests of the child'

Appropriate, speedy and effective intervention is the key to the role of the court. Through the powers and resources available only to the court, an appropriate order can be applied and enforced.

The courts, with due process and specifically written statutes or rules, must not hesitate to utilize their powers in the enforcement of the law. From an appropriate sanction or diversion for a first-time offense to mandated treatment programs for those children and families abusing drugs or alcohol, the juvenile and family courts must act. Alcohol and substance abuse has been ignored as a significant violation of law itself and as an influence upon other offenses or problems. Too often even the statutes (and certainly their enforcement) have been vague, and ad hoc. There need to be clear legal mandates to courts from legislatures to apply the law. The voice of law enforcement, school officials and prosecutors must be heard, and the full power and authority of the courts applied to providing the necessary sanctions and remedies.

Thus, the two basic elements of the current mission of the National Council are:

- **Accountability**

  Juvenile and family court judges must rigorously enforce existing law relating to adolescent alcohol and drug abuse.

- **Reducing Demand**

  Juvenile and family court judges must aggressively work toward the reduction of use of alcohol and drugs by the youth in their communities.

The biggest problems we have seen in the implementation of the 1986 federal drug legislation to date are parochialism and lack of coordination. Thus, for example:

- BJA guidelines to the states were too narrow to recognize that persons under age 18 are an important part of the drug problem. Thus, many state law enforcement plans have been deficient in that they have not included juvenile components, or such components are weak, or not comprehensive.

- Juvenile courts inundated with drug cases have been denied federal technical assistance because BJA says it was intended only for criminal courts.

- Not one ADAMHA (OSAP) high risk minority youth grant went to any applying community which included a juvenile court role in its prevention plan -- simply because of a total ignorance on the part of academic and treatment community "peer grant reviewers" of what juvenile courts are and do and who their clientele are. Who are these judges and what do they know about high risk youth, these folks said. Many of these judges are minorities themselves, we pointed out after the fact, and the children they deal with are mostly minorities, from broken homes or homeless, long gone from school, many on public assistance, teen parents, etc., the very definition in the Act of "high risk youth!"

From this experience and these perspectives, Senator DeConcini, we particularly like these features of S. 2205 which:

- Require integrated coordinated state plans including supply-demand Aspects, law enforcement, schools, prevention, treatment, the works, and for the coordinated federal review of such plans under a reconstituted BJA.

- Provide for three year plans and funding.
- Expand to 31 the purposes under the Drug Control Formula Grant Program
- Provide for multidisciplinary drug control boards at the local, state and national levels.

We have several suggestions for your consideration for possible legislative and/or report language inclusions which, from our perspective, would, we believe, strengthen the bill:

- It should be made clear in several places, including the Formula Grant Program purposes, that, where appropriate, the juvenile as well as the criminal justice system is and should be involved and that comprehensive plans should address juveniles as well as adult users and abusers. This is particularly true with respect to areas such as intensive supervision, treatment programs in detention facilities, testing, judicial resources and training, state legislation, etc.
- Consideration should be given to allocation of some portion of BJA Discretionary funds or other funds to the Office of Juvenile Justice and Delinquency Prevention, which, we believe, should have been funded as part of the '86 Act. Although not so funded in '86, the agency has under way several valuable drug related projects in areas such as youth gang prevention, intensive supervision, police handling of juvenile drug offenders, etc. Such juvenile drug related programs should be allowed to continue and indeed, the agency should be **encouraged** (not discouraged as the House Reauthorization Bill would) to develop and fund juvenile drug related programs in areas of prevention, adjudication and treatment and, where appropriate, drug related technical assistance services to juvenile law enforcement, prosecution, courts, probation and detention.
- Judicial branch involvement should be encouraged with respect to membership on local, state and national drug control boards.
- The National College of Juvenile and Family Law and the National Judicial College, also located at the University of Nevada/Reno, are responsible for the national level training of over 37,000 state judges. Both of our institutions have been heavily involved since 1983 in providing drug and alcohol abuse programs (or components of general training programs in Reno and at other locations). These programs/components have been very favorably received and have enjoyed outstanding ratings from outside expert evaluators. Yet they have thus far reached only a small portion of the judges or key court-related personnel of the state judiciary. Both institutions have sought federal funds since '86 to expand these offerings to reach many

more judges who need and want this training, but only OJJDP has responded (with $150,000 from BJA for our College last year, not renewable).

It seems axiomatic that no matter how good the law enforcement work and how well trained and savvy the prosecutor, a drug case tried to a judge who is untrained in this important area can (and often has) resulted in a less than satisfactory adjudication.

The NJC and our College will continue to provide these courses paid for out of registration fees (many courts cannot afford), endowment and dues fees and the like. But we feel that the Justice Department and other relevant federal agencies receiving funds under the '86 and hopefully new '88 legislation should be encouraged to utilize and support the in place, nationally unique programs and facilities available at our Colleges so that many greater numbers of state judges can receive needed education and training in the area of drug and alcohol abuse as it pertains to the cases they see every day in their courts.

Senator DeConcini, the National Council of Juvenile and Family Court Judges deeply appreciates the opportunity to testify here in Tucson today. If the judges and their National Council can be of assistance to you and your staff on these matters, we hope you will call on us.

THE CRIMINAL AND JUVENILE JUSTICE PARTNERSHIP ACT OF 1987

FRIDAY, MAY 13, 1988

U.S. Senate,
Committee on the Judiciary,
Subcommittee on Courts and Administrative Practice,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:06 a.m., in room SD-226, Dirksen Senate Office Building, the Hon. Howell Heflin (chairman of the subcommittee) presiding.

Also present: Senators Thurmond and Specter.

OPENING STATEMENT OF SENATOR HEFLIN

Senator **Heflin**. The subcommittee will come to order.

This morning, it is my pleasure to hold this hearing on S. 1250, the Criminal and Juvenile Justice Partnership Act of 1987. This is important legislation and it is my hope that the Senate and the Congress as a whole will act on this bill with haste and send it to the President for his signature before the end of the 100th Congress.

I would like to welcome many distinguished guests here today, including a number from my home State of Alabama who I am sure will provide outstanding testimony.

S. 1250 is essentially a conglomeration of various different reauthorization bills and other legislative efforts tied together to help improve law enforcement and provide needed assistance, financial and otherwise, in our Nation's fight against crime.

Crime, particularly drug-related crime, is on the rise in America, and is taking a greater toll on the people of our country and on every aspect of our society than ever before. People are afraid that they will be mugged by a heroin addict trying to get money to sustain his habit. Parents are afraid their kids will become involved with drugs in school, an involvement that could wreck their futures and endanger their lives. Drugs have affected our foreign relations as is clearly evident from our recent dealings with Panama and the corrupt dictator Manuel Noriega.

The prevalence of drug abuse can be seen in people of all age groups and from all backgrounds. It has been estimated that more than 38 percent of the citizens of this Nation have at some point in their lives used some illicit drug. This alarming statistic is not without its consequences. A study conducted by the Research Triangle Institute estimated that the economic cost of drug abuse to the United States during 1983—this is the latest estimate that was made—was $59.7 billion, and, of course, we would anticipate that it is much higher than that today.

The drug problem facing our Nation and our law enforcement agencies has been highly frustrating. I am hopeful that the testimony we hear today will help this committee and the Senate as a whole to address and resolve some of the problems—the wasted resources, the confusion between law enforcement agencies, and the lack of information—that has impeded our war on drugs.

We have passed drug legislation before that we thought was going to meet the need, but obviously it is not, so it is necessary to take a new look at the drug problem.

Along these lines, I believe that the legislation now before us goes a long way in addressing these matters. While it contains various different provisions, it essentially addresses three concerns: It provides greater funding, spanning the 5 years instead of just one or two, thereby providing consistency and stabilization for drug enforcement efforts. It mandates greater cooperation between law enforcement agencies and there-by eliminates confusion and concentrating enforcement efforts. And it provides for the collection and the exchange of information dealing with crime and drug abuse, which will doubtless be a tremendous help both in the shaping of future policy and in the daily activities of law enforcement agencies across the country.

Among the specific provisions of the bill are the drug enforcement grant program, which will provide vital funds to State and local law enforcement agencies for drug investigations, prosecutions, adjudication, and corrections, the reauthorization of the Office of Juvenile Justice and Delinquency Prevention, the Bureau of Justice Assistance, the National Institute of Justice and the State Justice Institute and the Crime Victims' Fund. This bill will also create some new programs which I hope will be successful.

The bill will increase public safety officers death benefits, establish criminal justice improvement grants to help State and local agencies improve their data bases. Finally, the bill will authorize the National Academy of Sciences to analyze all of our current crime and drug abuse programs, determine the effectiveness of our efforts, and work to help us formulate a comprehensive national drug policy.

As important as the above programs are, this bill will hopefully establish a more streamlined structure to provide some help to State and local law enforcement agencies attempting to develop innovative approaches to fighting crime and drug abuse. It will hopefully serve to assist the officers in the field who are directly confronted with the offenders on a daily basis.

This bill has many aspects to it and will help a great deal, but it is not a cure-all for the drug problem, but nevertheless it will assist and aid in this effort. There are other directions that must be taken in the drug field and hopefully we will also address these.

At this point, without objection, I will place in the record the statement of Senator Grassley on this bill.

[The statement of Senator Grassley follows:]

STATEMENT OF SENATOR CHARLES E. GRASSLEY
ON THE
CRIMINAL AND JUVENILE JUSTICE PARTNERSHIP ACT
S. 1250

SENATE JUDICIARY COMMITTEE HEARING
MAY 13, 1988

……

MR. CHAIRMAN, I WANT TO THANK YOU FOR HOLDING THIS HEARING TODAY ON S. 1250, THE CRIMINAL AND JUVENILE JUSTICE PARTNERSHIP ACT.

THIS BILL CONTAINS A NUMBER OF VERY IMPORTANT AND WORTHWHILE FEDERAL PROGRAMS THAT PROVIDE ASSISTANCE TO THE STATES AND LOCAL GOVERNMENTS IN THEIR EFFORTS TO FIGHT CRIME.

REORGANIZED UNDER THE COMPREHENSIVE CRIME CONTROL ACT OF 1984, THESE PROGRAMS ARE AIMED AT REDUCING THE LEVELS OF VIOLENT CRIME, JUVENILE DELINQUENCY, AND DRUG ABUSE IN THE UNITED STATES.

SINCE THE 1984 REORGANIZATION, THESE PROGRAMS HAVE PROVIDED A CRITICAL COMPONENT TO THE NATION'S CRIME FIGHTING EFFORTS, WHILE MINIMIZING FEDERAL INTERFERENCE IN STATE AND LOCAL DECISIONS.

WE ARE ALL TOO WELL AWARE, MR. CHAIRMAN, THAT CRIME, PARTICULARLY VIOLENT CRIME, IS ONE OF THE COUNTRY'S MOST PRESSING PROBLEMS.

VICTIMS OF CRIME AND SOCIETY AS A WHOLE PAY A STAGGERING COST FOR THE CONTINUED GROWTH OF CRIMINAL ACTIVITY IN THE UNITED STATES.

MR. CHAIRMAN, I BELIEVE THAT LAW ENFORCEMENT IS PRIMARILY A STATE AND LOCAL RESPONSIBILITY. THEREFORE, I AM A STRONG SUPPORTER OF LOCAL CONTROL OF THE CRIMINAL JUSTICE SYSTEM.

HOWEVER, AS THE COMPLEXITY AND THE SOPHISTICATION OF CRIMINAL ACTIVITY INCREASES, LAW ENFORCEMENT MUST ADVANCE ITSELF TO MEET THE THREAT. THE FEDERAL GOVERNMENT SHOULD PLAY AN IMPORTANT, SUPPORTING ROLE IN THIS AREA OF THE LAW.

ULTIMATELY, ALL LEVELS OF GOVERNMENT MUST BE PREPARED TO MEET THE CHALLENGE OF MODERN CRIMINAL ACTIVITY WITH COORDINATED, COOPERATIVE LAW ENFORCEMENT EFFORTS.

I BELIEVE THAT MANY OF THE PROGRAMS IN THIS ACT FURTHER THIS END. I ALSO BELIEVE THAT IN THESE TIMES OF FEDERAL FISCAL LIMITATIONS, THE STATES AND LOCALITIES CANNOT EXPECT TO HAVE THESE CRIMINAL JUSTICE PROGRAMS SUBSIDIZED, WORTHY AS THEY MAY BE.

IN FACT, IN KEEPING WITH THE PARTNERSHIP ASPECTS OF THIS BILL, MOST OF THESE PROGRAMS REQUIRE THE STATES AND LOCALITIES TO MATCH FEDERAL FUNDS. CONSISTENT WITH THIS PHILOSOPHY, THE FEDERAL GOVERNMENT MAKES A LONG-TERM COMMITMENT TO THESE PROGRAMS THAT WILL ALLOW THE STATES AND LOCALITIES TO DEVELOP COMPREHENSIVE CRIME-FIGHTING STRATEGIES.

SOME OF THE PROGRAMS INCLUDED IN THIS LEGISLATION ARE

1) THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT.

I APPRECIATE THAT LOCAL PROGRAMS ALL OVER IOWA, UNDER THE GUIDANCE OF THE IOWA JUVENILE JUSTICE ADVISORY COUNCIL AND AUTHORIZED BY THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT (JJDPA) TITLE OF THIS LEGISLATION, HAVE HAD A TREMENDOUS IMPACT ON THE JUVENILE JUSTICE SYSTEM IN OUR STATE.

THE IOWA JUVENILE JUSTICE ADVISORY COUNCIL HAS BEEN CREATIVE AND INNOVATIVE IN ITS APPROACH TO JUVENILE JUSTICE AND IS AN EXAMPLE FOR THE NATION OF WHAT CAN BE ACCOMPLISHED AT THE LOCAL LEVEL.

FOR EXAMPLE, AS WE ARE ALL AWARE, ONE OF THE PRIMARY OBJECTIVES OF THE JJDPA IS THE ELIMINATION OF THE USE OF ADULT JAILS AND LOCK-UPS FOR ACCUSED JUVENILE OFFENDERS. THE JJDPA AND ITS GRANT PROGRAMS ALLOW FOR FLEXIBILITY IN DEVELOPING APPROACHES TO MEET THE MANDATE FOR REMOVAL OF JUVENILES FROM THE ADULT PRISONER POPULATION.

2) THE BUREAU OF JUSTICE STATISTICS AND THE NATIONAL INSTITUTE OF JUSTICE.

THESE AGENCIES PROVIDE RESEARCH AND STATISTICAL DATA TO CRIMINAL JUSTICE PROFESSIONALS AND POLICY MAKERS. UNDER THE COMPREHENSIVE CRIME CONTROL ACT, THESE AGENCIES ARE SEPARATE, INDEPENDENT, AND GENERALLY OBJECTIVE. WE SHOULD BE SUPPORTIVE OF THEIR MISSION.

3) THE CRIME VICTIM'S FUND.

AS YOU KNOW, I AM A STRONG SUPPORTER OF THE CRIME VICTIM'S FUND, WHICH IS MADE UP OF FINES COLLECTED FROM THOSE CONVICTED OF FEDERAL CRIMES.

THE ESTABLISHMENT OF THIS FUND IN THE COMPREHENSIVE CRIME CONTROL ACT PROVIDES DIRECT COMPENSATION TO THE VICTIMS OF CRIME. IT ALSO PROVIDES ASSISTANCE TO THE STATES AND LOCALITIES TO ESTABLISH CRIME VICTIMS ASSISTANCE PROGRAMS.

DURING FISCAL YEAR 1988, WHICH ENDS SEPTEMBER 30, 1988, THE FUND HAS BEEN AUTHORIZED TO SPEND $110 MILLION FROM CRIMINAL FINES TO COMPENSATE THE VICTIMS OF CRIME.

THE COMMITTEE SHOULD BE CERTAIN THAT THIS IMPORTANT TOOL IN THE FIGHT AGAINST CRIME IS SUFFICIENTLY FUNDED. THE CRIME VICTIM'S FUND SHOULD BE FILLED WITH MORE THAN JUST PLATITUDES AND LIP SERVICE.

4) THE STATE JUSTICE INSTITUTE.

BY PROVIDING RESEARCH, EDUCATION, AND TECHNICAL ASSISTANCE AIMED AT IMPROVING THE JUSTICE SYSTEM AT THE STATE AND LOCAL LEVEL, THE INSTITUTE HELPS TO ENSURE THAT EACH CITIZEN HAS ACCESS TO A FAIR AND EFFECTIVE JUSTICE SYSTEM.

THERE IS MUCH IN THIS BILL THAT DEMONSTRATES THE COMMITMENT OF THE CONGRESS TO FIND SOLUTIONS TO THE PROBLEMS OF CRIME, DRUG TRAFFICKING, AND JUVENILE DELINQUENCY IN OUR COUNTRY.

AGAIN, I'D LIKE TO THANK THE CHAIRMAN FOR THIS HEARING, AND I LOOK FORWARD TO THE TESTIMONY OF OUR WITNESSES.

Senator HEFLIN. We are delighted first to have representing the State Justice Institute, the Chief Justice of Alabama, the Hon. C. C. Torbert, Jr.; Dave Tevelin, the Executive Director of the State Justice Institute; and the Hon. Harry L. Carrico, the First Vice President of the Conference of Chief Justices.

The following organizations have indicated their support for the continuation of the State Justice Institute: The National Council of Juvenile and Family Court Judges, the National Judicial College, the National Academy of Judicial Education, the American Bar Association, the National Conference of the United States, and the National Association of Attorneys General.

[The statements of the organizations follow:]

ORGANIZED MAY 22, 1937

NATIONAL COUNCIL OF JUVENILE AND
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Testimony of the
National Council of Juvenile
and
Family Court Judges

In support of the Reauthorization of the
State Justice Institute Act of 1984
(P. L. 98-620)

For Inclusion in the Record of the
Senate Judiciary Subcommittee on
Courts and Administrative Practice

May 13, 1988

TRAINING DIVISION • NATIONAL COLLEGE OF JUVENILE AND FAMILY LAW
RESEARCH DIVISION • NATIONAL CENTER FOR JUVENILE JUSTICE

An Equal Opportunity Employer

July 10-15, 1988 51st Annual Conference Ft. Lauderdale, Florida

The National Council is a membership organization composed of approximately 2,500 juvenile and family court judges and key court related personnel. Our members come from every state and we have affiliated 17 state associations. We are 51 years old this year, were formerly affiliated with the American Bar Association in Chicago, but since 1969 have been located at the University of Nevada/Reno. Our primary activity is the National College of Juvenile and Family Law which each year conducts programs for judges, court personnel and volunteers, lawyers, prosecutors, etc., not only at the University, but also on the road in almost every state in the Union.

Emphasis on Judicial Education

The National Council supported the original enactment of the State Justice Institute Act because of the prospect it held towards assisting the state courts in many areas of much needed improvement, including education and training of judges and court related personnel. Although implementation of the Act was delayed, the National Council believes that this small program directed by a Board including state judges themselves has made an excellent start in addressing many of the most pressing problems confronting the courts as they struggle to improve their operations and the quality of justice in the face of greatly increased caseloads, too long delays and limited resources.

We particularly applaud the high priority the Institute has given to enhancement of judicial education, one of the most essential factors necessary for court improvement.

The history of federal programs to assist state and local justice systems has been characterized by a neglect of the courts. For example, under the Law Enforcement Assistance Administration program courts were initially excluded. When, under the later stages of that program the need to address courts' problems was finally recognized, major strides were made in state court system modernization and reform, especially through use of federal discretionary grants.

Federal Programs Ignore State Courts Needs

Unfortunately, a similar pattern of neglect is notable now in the implementation of the Anti-Drug Abuse Act of 1986, under which **less than three percent** of state (block grant funds) have been allocated for programs to help state courts in the processing of the greatly increased numbers of offenders entering both the criminal and juvenile justice systems as a result of increased law enforcement and prosecution of drug and drug-related cases.

While the State Justice Insitute Act was not envisioned as, will not, and should not, become a subsidy for state courts, one of the underlying reasons for creation of the Institute was the recognition that "federal initiatives" often result in major impacts on the operations of state courts. Clearly, that is now the case in the war on drugs. Similar impacts on operation of family courts have resulted, for example, from the 1986 passage of the Adoption Assistance and Child Welfare Act (P. L. 96-272) and the Child Support Enforcement Amendments on 1984 (P. L. 98-378).

The State Justice Institute was designed to and can assist state courts in addressing how best they can deal with the impact of such federal initiatives as they come down. In these and many other areas, development of training programs and components for Judges, Judicial Managers, Probation Officers, and other court related personnel is essential.

How SJI Helps

As the State Justice Institute matures, we would see it interacting with federal agencies through cooperative agreements and the like to see to the meeting of such state courts' training needs, and, in the event of inaction on the part of the federal agencies, the Institute itself funding necessary program development or demonstration efforts.

The National Council of Juvenile and Family Court Judges strongly urges the reauthorization for four years of the State Justice Institute Act. Less than two years of operation of the Institute has already begun to demonstrate its potential to assist state courts in vital areas of needed improvement. Reauthorization would allow it to demonstrate its full potential.

W. Donald Reader

W. Donald Reader
Vice President

Gerald E. Radcliffe

Gerald E. Radcliffe
Chairman, Legislation
and Governmental Relations
Committee

OF JUVENILE
NATIONAL COUNCIL
AND FAMILY
COURT JUDGES
ORGANIZED MAY 22, 1937

NATIONAL COUNCIL OF JUVENILE AND
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Mayfield Village, Ohio

Testimony of the
National Council of Juvenile
and
Family Court Judges

before the
Senate Judiciary Committee Hearing On
S. 1250

Tucson, Arizona
April 25, 1988

TRAINING DIVISION • NATIONAL COLLEGE OF JUVENILE AND FAMILY LAW
RESEARCH DIVISION • NATIONAL CENTER FOR JUVENILE JUSTICE

July 10-15, 1988 51st Annual Conference Ft. Lauderdale, Florida

An Equal Opportunity Employer

Senator DeConcini, the National Council of Juvenile and Family Court Judges appreciates the opportunity to appear before you today. I am Arne Schoeller, Associate Director for Planning of the National Council and work with its Legislation and Governmental Relations Committee.

The National Council is a membership organization comprised or approximately 2,500 juvenile and family court judges and key court related personnel. Our members come from every state and we have affiliated 17 state associations. We are 51 years old this year, were formerly affiliated with the American Bar Association in Chicago, but since 1969 have been located at the University of Nevada/Reno, where our primary activity is the National College of Juvenile and Family Law which each year conducts programs for judges, court personnel and volunteers, lawyers, prosecutors, etc., not only at the University, but also on the road in just about every state in the Union.

Senator, I am sure you will be interested that, on May 13th a very illustrious daughter of Arizona, Justice Sandra Day O'Connor, will be the keynote speaker at ceremonies attendant to the groundbreaking for the new $4 million facility at the University which will provide expanded educational and training facilities for the nation's judges and others and house the National Council's Reno staff of about 35.

I would be remiss here in not thanking you and other members or former members of the Judiciary Committee, including Senators Biden, Thurmond and Kennedy and former member Paul Laxalt for the 1984 Challenge Grant to the University of $1.5 million which has helped make this new facility possible. I hasten to add that all the rest of the funding has been raised by the University and the National Council in the private sector from business, foundation and individual sources.

This statement is divided into several parts.

I. Support for Title II Subtitle A of S. 1250, Reauthorization of the Juvenile Justice and Delinquency Act.

The National Council testified in 1973 on behalf of this original legislation, has supported its several reauthorizations, and more particularly every year through its members in every state has supported the appropriations for the agency.

We have since 1981 vigorously argued with the current administration on its attempts to eliminate funding for the agency. It is to the Congress' credit and particularly to leaders such as yourself, that this small but vital federal program has been allowed to continue.

The National Council believes that the Act has proved beneficial, helpful to the system, and is generally cost effective. The admirable aspirations of the Act, to which the National Council subscribes, have contributed to humane and beneficial reforms in juvenile justice. Viable alternatives for traditional means of dealing with some troubled youth and their families have been developed. A greater range of dispositional alternatives for adjudicated delinquents have been identified and successfully demonstrated in many communities.

The administration's notion that the Act's purposes have been accomplished and the agency can now be disbanded is short sighted. For example, unfortunately, many of the findings of the 1984 Reauthorization remain true today. While the National Council does not subscribe to the idea that the Juvenile Justice System is a failure or the juvenile courts ineffective, it unfortunately still remains true that in many communities, especially many of our largest and many of our poorest, courts are overcrowded, facilities, programs and resources inadequate, staff untrained.

Federal Leadership Needed

This program, though modest, represents the **only federal initiative** in the area of Juvenile Justice, which is, of course and should remain, primarily a state and local concern. Its continuation can only be justified if it examplifies a federal leadership role as set out in the original 1974 legislation as subsequently amended. Such role should focus on systemic improvement and specifically on those functions which can best be performed (and in many cases only be performed) at the federal level --- provision of specialized training; technical assistance; practical, objective cost effective research and dissemination of its results, and demonstrations of programs that work. Only the federal government can effectively collect, analyze and disseminate national statistics on what is actually happening to children in the system, what trends are emerging, etc.

Such activities so prominently featured in the original legislation can only be carried out through the national discretionary programs which, if properly conceived and conducted, are of direct benefit to states and localities.

The programs for which the National Council currently receives discretionary funding meet this criteria. For example:

- **Training of Court and Court-Related Personnel:** With rare exceptions, we know of no expenditure of state (formula) funds under the Act for this purpose. Our College is the national provider of these services and is largely funded by OJJDP. Not only do judges and others come to our national and regional programs in Reno and elsewhere, but we are modestly subsidized by the agency to assist states in their judicial training programs through planning, providing faculty, recommending expert speakers, etc.

- **Technical and Informational Assistance for Courts and Related Agencies:** All such services we provide are provided to states and local jurisdictions.
- **Statistical Analysis:** The courts report their information to our Research Center. We analyse it and, when published annually, they can see how they compare with other jurisdictions on such matters as severity of sentences for given offenses and number of cases transferred to adult criminal courts, etc.
- **Special Programs:** OJJDP has funded us through a national initiative to keep abused and neglected children from "drifting" in foster care, providing services to reunite them with parents if possible; if not, to terminate parental rights and place those children for adoption as soon as possible. Currently we are passing $2 million dollars of OJJDP Discretionary funds **directly through to the states** for this purpose. For example, Arizona is receiving $26,000, California $206,000, etc.

The bottom line is that the types of discretionary programs we have outlined and many others of direct relevance to system improvement are a vital part of the federal leadership role in juvenile justice. Without these types of programs, inherently by their nature national in scope, there can be little or no federal leadership.

Straight Reauthorization, Not House Bill

In reauthorizing the Act we believe the current Act's balance of distribution of funds as between the several discretionary accounts and between the state "formula (block grant)" funds and the discretionary funding should be maintained as is.

We strongly support the "straight reauthorization" of this act as contained in Title II, Subtitle A of S. 1250. I stress the "straight reauthorization" because, apparently the House is passing a reauthorization bill which essentially would abrogate the federal leadership role through drastically reducing the scope and funding of national programs in favor of a juvenile justice revenue sharing program. For example, while the House bill would leave on the books the purposes of the Act with regard to training and education for persons in the system, technical assistance, statistical collection and analysis and related national programs, it would not require, as the current Act does, that a set percentage, or indeed any amount, of each year's appropriation be expended for these national leadership purposes. Yet, it would require that certain types of programs which may be very desirable in themselves, but which have little to do with systemic improvement, such as civics education for public school children, be funded out of drastically reduced discretionary funds every year.

The House bill also contains interesting provisions such as a requirement that Comptroller General of the United States conduct a two year study and report to Congress on every order issued by a judge or judicial officer in the United States since January 1, 1984 which has resulted in the detention for any period of time in any secure facility of any person less than 18 years of age!

Jail Removal

The National Council supported the addition of the Jail Removal mandate to the Act in 1980 and in 1981 called for greater federal and state resources to be devoted to this problem.

In those comparatively few cases where it is necessary to detain children in secure facilities, juvenile and family court judges use local or regional detention facilities exclusively for juveniles. Those children who are placed in local adult jails or lockups, a practice the National Council has always deplored, most often are so placed for violation of traffic laws or municipal ordinances (re minor shoplifting, etc.) by local municipal judges or justices of the peace who are not part of state court systems as most juvenile and family courts now are. Traffic violations do not come within the jurisdiction of juvenile and family courts in most states.

Most such traffic and local ordinance violations do not warrant incarcerations of juvenile offenders; however, in such rare cases where it may be necessary (DUI and juvenile is picked up at night far away from his/her home), detention should be only in special juvenile detention facilities, a foster home with persons specially trained to deal with juvenile detox situations, or a medical facility. We have long subscribed to this position and have advocated it for many years in appropriate training programs involving law enforcement and juvenile detention as well as judges, prosecutors and court intake and probation personnel.

Much of the motivation for the House reauthorization bill which guts the National discretionary programs stems from a desire to provide those 20 or so states not in compliance with the 1980 Jail Removal Mandate of the Act with additional Block Grant funds in the hopes that this will facilitate their compliance.

There is no assurance that states which might receive such additional funds would spend them on jail removal and no requirement that they do so. Indeed, analysis of state spending under the Act since 1981 reveals that little has been spent for this purpose, and that **most of the states not now in compliance with the 1980 mandate did not address this problem with their 81-86 funds. In fact, more has been accomplished in these states on jail removal through federal technical assistance and use of $3 million in Discretionary grants made specifically for this purpose to the problem states in '87 than was ever accomplished by them despite the $85 plus million they received in block grants for the six years ending in '86.**

Under the misguided House reauthorization bill in this instance, the agency would be stripped of discretionary and technical assistance funds it could apply specifically for this purpose specifically to non-complying states, while there is no assurance that those states would apply increased block grant funds to their jail removal problem. Also, it can be argued that the House bill grants unwarranted leniency and extra years to the noncomplying states which in any case will result in the unlawful or inappropriate incarceration of many thousands of children in these states until 1993. Most states (including Arizona) have addressed and solved this problem through appropriate state legislative and local action.

I should add here that, as the word gets out about the content of the House Bill, many other national organizations interested in the reauthorization of this legislation, not just the judges, are appalled at what the House is doing. These include such groups as the Boys Clubs of America, the National District Attorneys Association, Girl Scouts and several prestigious universities and research organizations expert in the field. As is the case with our organization, **they are urging a straight "as is" reauthorization,** not the House approach. I am sure these and other groups will be conveying their own message to this effect to your Committee members as well as to their Representatives in the House.

II. Support of Title II, Subtitles B and C of S. 1250, Reauthorization of the Runaway and Homeless Youth and Missing Children's Assistance Acts

The National Council supported original enactment of both these Acts and supports reauthorization of both. Specifically, with regard to the Runaway and Homeless Youth Act, we support in this instance the language of the upcoming House Bill (H.R. 1801 as amended).

Because of this Act, many children in crisis who once found danger and violence on the streets can now find safety, understanding, and guidance at shelters across the nation. The dedicated professionals who staff these shelters have helped many children regain their self-esteem and take control of their lives.

There is no question that runaway shelters help to rebuild family relationships and help children in crisis to address their problems directly and to learn how to choose their own futures. Over one million children run away each year, yet almost 80% of those served by shelters return to their families, are placed in foster homes, or are placed in independent living programs.

Today's troubled youth have multiple needs, and existing runaway shelters are being asked to provide diverse services with limited budgets. Shelters across the country report:

- Increased numbers of youth who have been physically or sexually abused;
- more youth with serious mental health problems;
- a growing number of chronically dysfunctional families;
- more substance abuse by youth and families; and
- more youth at higher risk for suicide.

Before the needs of these youth can be adequately addressed, further investment is needed for basic shelter services. According to the U.S. Department of Health and Human Services, the Act serves only about one-fourth of those children in need of shelter and other services. While many shelters have been able to acquire supplemental state and local funding, others exist on shoestring budgets, a difficult task given the changing needs of their clients.

Despite the obvious success of these programs and the need for more shelters, the Administration for the seventh consecutive year has recommended that this Act as well as the Juvenile Justice and Delinquency Act be zeroed out in the fiscal 1989 budget.

In addition to restoring these funds, Congress should also focus on another serious problem facing runaway shelters. There is clearly a need for more shelters across the country, but under current law new facilities would be funded at the expense of existent shelters' already strained budgets.

Congress and the Administration must find wasy to ensure that children in need receive shelter and assistance. Given the limited funds available, this can best be accomplished by targeting at least 90% of the funds for basic shelter grants as the House Reauthorization Bill provides. Remaining funds would continue to be used for the important research and demonstration projects that are needed to help service providers respond to the changing needs of their clients.

III Support of Title IV of S. 1250, Reauthorization of the State justice Institute Act

This small but vital program to provide modest assistance to state and local courts only became operational in 1987 due to the Administration's long delay in implementing the legislation.

The National Council believes this federally chartered corporation under the direction of an eleven member board including six state judges has gotten off to a good start and that the Act deserves reauthorization as provided for in S. 1250, Title IV.

A prominent member of the your Committee, Senator Howell Helfin, former Chief Justice of the Alabama Supreme Court, has championed this legislation on behalf of the state courts, and a most distinguished long time member of the Arizona Supreme Court, James Duke Cameron, is one of the original board members of the Institute.

IV. Support for Title III, Subtitles A, B and H: Reauthorization of the Justice Assistance Act, Strengthening Amendment Contained in Sec. 312 Re Domestic Violence, Etc.; and Extension of the Victims of Crime Act 1984 Amendments Through 1992.

The National Council supported the original legislation with respect to Subtitles A and H and believes now that they should be reauthorized or extended through FY 1992.

We also support Subtitle B which would strengthen the criminal (and juvenile) justice system's response to domestic violence cases, especially serious child abuse cases, all of which come to the family court with respect to protection of abused children. There continues to be a need for better coordination of these cases as between the family court which is protecting the child victim and the criminal court in which prosecution of the alleged perpetrator (often a family member) takes place.

V. Discussion of S. 2205, the Proposed Omnibus Antidrug Abuse Act of 1988 and of Title I (Drug Law Enforcement) of S. 1250 From the Perspective of Juvenile Courts

Senator DeConcini, the National Council wants to go on record in applauding your outstanding leadership in conceptualizing and introducing S. 2205, and in already having the support as co-sponsors of over 65 Senators. We hope that legislation along these lines can be passed and enacted into law this year. It is vitally needed to augment and strengthen the 1986 legisltion and programs. The resources that would be committed in the area with which we are familiar, essentially domestic -- prevention, treatment, school, high risk youth, etc., as well as law enforcement, prosecution, adjudication, corrections, etc., are appropriate and needed.

Juvenile courts like criminal courts are increasingly being inundated with drug related cases, especially in the largest urban areas where much of our membership resides. It is appropriate that many juveniles apprehended as members of increasingly sophisticated youth gangs (many now operating interstate) engaging in the marketing (and even production) of illegal drugs be prosecuted as adults in criminal court. However, many -- the younger, the less sophisticated, the unarmed, the lookouts and hangers on -- will remain in the juvenile court, which must deal with them, hopefully in a rehabilitative manner. These courts also are and should become more involved in community gang prevention efforts, particularly with regard to younger children.

But, the youth gang member dealing in drugs is only the tip of the iceberg so far as juvenile and family courts are concerned.

A year ago the National Council surveyed almost 300 courts and the judges responded to the effect that drugs and/or alcohol are a **key underlying factor in 60 - 90% of the cases they see,** not just delinquency cases, but also dependent, neglected and abused children cases, runaway and homeless youth cases, family violence cases, etc. In other words, the child may be before the court for shoplifting, car theft, as abused or sexually abused, as a chronic truant or runaway, for prostitution, etc., **not for a drug offense, but drug/alcohol use or abuse by the child or in the family is really what's involved.**

Juvenile and family courts, as they proceed to become more sensitive to this pervasive problem, must distinguish among the various levels of experimentation, use, abuse and often dependency and addiction. They must participate in the development of and provision of sanctions, services and treatment programs and other community resources.

But, whether our children are "merely" experimenting or whether they are dependent or addicted to one or more substances, **there cannot be a distinction with regard to the laws of all fifty states.** The use of alcohol -- up to the age of 21 in almost all the states -- **is illegal.** Use of other illicit substances by adults is a crime. For a child, it is sufficient reason under the law for a charge of delinquency, or lesser offense, within the juvenile justice system.

It is no understatement to state that the law of 50 states clearly have not prevailed. They have not -- by themselves -- prevented our youth from using and abusing psychoactive drugs and alcohol.

There is a more complex and less recognized problem which most of our justice system -- law enforcement, prosecutors and courts -- have not faced up to:

> **Ignoring the law is allowing substance abuse to destroy the fabric of the American family.**

By failing to emphasize accountability, by failing to detain, test and assess, prosecute, adjudicate and provide appropriate sanctions, service and treatment, those sworn to uphold the law are contributing to the disintegration of families.

In the name of having to attend to "more important" offenses, to intervene in more obvious or pressing problems, to adjudicate already crowded dockets, our courts are forsaking an opportunity to provide not only appropriate "justice," but also as within their powers, to mandate treatment, services and other remedies so desperately needed by those children-at-risk, the children who come, or should come, before our juvenile courts for a disposition.

Beyond the clear duty to enforce laws against the use of alcohol and drugs by children, juvenile and family courts must have clear authority to order appropriate sanctions or services or treatment.

When a child is detained -- for an alcohol or substance violation or, more commonly, for another offense which is connected with substance abuse, there should be in place a mechanism to assess the seriousness of the child's involvement. Such an assessment would provide the information for court services or other service agencies to more appropriately respond to the child's behavior and needs. The level of abuse, or the particularly young age of the child, then will determine the sanction, service or treatment to be provided. The assessment should also focus on the child's family. Do the parents abuse drugs or alcohol? Is the child's offense or behavior connected with family shortcomings? How can the court order, or otherwise involve, the parents in assuring the best interests of the child?

Appropriate, speedy and effective intervention is the key to the role of the court. Through the powers and resources available only to the court, an appropriate order can be applied and enforced.

The courts, with due process and specifically written statutes or rules, must not hesitate to utilize their powers in the enforcement of the law. From an appropriate sanction or diversion for a first-time offense to mandated treatment programs for those children and families abusing drugs or alcohol, the juvenile and family courts must act. Alcohol and substance abuse has been ignored as a significant violation of law itself and as an influence upon other offenses or problems. Too often even the statutes (and certainly their enforcement) have been vague, and ad hoc. There need to be clear legal mandates to courts from legislatures to apply the law. The voice of law enforcement, school officials and prosecutors must be heard, and the full power and authority of the courts applied to providing the necessary sanctions and remedies.

Thus, the two basic elements of the current mission of the National Council are:

- **Accountability**

  Juvenile and family court judges must rigorously enforce existing law relating to adolescent alcohol and drug abuse.

- **Reducing Demand**

  Juvenile and family court judges must aggressively work toward the reduction of use of alcohol and drugs by the youth in their communities.

The biggest problems we have seen in the implementation of the 1986 federal drug legislation to date are parochialism and lack of coordination. Thus, for example:

- BJA guidelines to the states were too narrow to recognize that persons under age 18 are an important part of the drug problem. Thus, many state law enforcement plans have been deficient in that they have not included juvenile components, or such components are weak, or not comprehensive.

- Juvenile courts inundated with drug cases have been denied federal technical assistance because BJA says it was intended only for criminal courts.

- Not one ADAMHA (OSAP) high risk minority youth grant went to any applying community which included a juvenile court role in its prevention plan -- simply because of a total ignorance on the part of academic and treatment community "peer grant reviewers" of what juvenile courts are and do and who their clientele are. Who are these judges and what do they know about high risk youth, these folks said. Many of these judges are minorities themselves, we pointed out after the fact, and the children they deal with are mostly minorities, from broken homes or homeless, long gone from school, many on public assistance, teen parents, etc., the very definition in the Act of "high risk youth!"

From this experience and these perspectives, Senator DeConcini, we particularly like these features of S. 2205 which:

- Require integrated coordinated state plans including supply-demand Aspects, law enforcement, schools, prevention, treatment, the works, and for the coordinated federal review of such plans under a reconstituted BJA.

- Provide for three year plans and funding.

- Expand to 31 the purposes under the Drug Control Formula Grant Program

- Provide for multidisciplinary drug control boards at the local, state and national levels.

We have several suggestions for your consideration for possible legislative and/or report language inclusions which, from our perspective, would, we believe, strengthen the bill:

- It should be made clear in several places, including the Formula Grant Program purposes, that, where appropriate, the juvenile as well as the criminal justice system is and should be involved and that comprehensive plans should address juveniles as well as adult users and abusers. This is particularly true with respect to areas such as intensive supervision, treatment programs in detention facilities, testing, judicial resources and training, state legislation, etc.

- Consideration should be given to allocation of some portion of BJA Discretionary funds or other funds to the Office of Juvenile Justice and Delinquency Prevention, which, we believe, should have been funded as part of the '86 Act. Although not so funded in '86, the agency has under way several valuable drug related projects in areas such as youth gang prevention, intensive supervision, police handling of juvenile drug offenders, etc. Such juvenile drug related programs should be allowed to continue and indeed, the agency should be **encouraged** (not discouraged as the House Reauthorization Bill would) to develop and fund juvenile drug related programs in areas of prevention, adjudication and treatment and, where appropriate, drug related technical assistance services to juvenile law enforcement, prosecution, courts, probation and detention.

- Judicial branch involvement should be encouraged with respect to membership on local, state and national drug control boards.

- The National College of Juvenile and Family Law and the National Judicial College, also located at the University of Nevada/Reno, are responsible for the national level training of over 37,000 state judges. Both of our institutions have been heavily involved since 1983 in providing drug and alcohol abuse programs (or components of general training programs in Reno and at other locations). These programs/components have been very favorably received and have enjoyed outstanding ratings from outside expert evaluators. Yet they have thus far reached only a small portion of the judges or key court-related personnel of the state judiciary. Both institutions have sought federal funds since '86 to expand these offerings to reach many more judges who need and want this training, but only OJJDP has responded (with $150,000 from BJA for our College last year, not renewable).

It seems axiomatic that no matter how good the law enforcement work and how well trained and savvy the prosecutor, a drug case tried to a judge who is untrained in this important area can (and often has) resulted in a less than satisfactory adjudication.

The NJC and our College will continue to provide these courses paid for out of registration fees (many courts cannot afford), endowment and dues fees and the like. But we feel that the Justice Department and other relevant federal agencies receiving funds under the '86 and hopefully new '88 legislation should be encouraged to utilize and support the in place, nationally unique programs and facilities available at our Colleges so that many greater numbers of state judges can receive needed education and training in the area of drug and alcohol abuse as it pertains to the cases they see every day in their courts.

Senator DeConcini, the National Council of Juvenile and Family Court Judges deeply appreciates the opportunity to testify here in Tucson today. If the judges and their National Council can be of assistance to you and your staff on these matters, we hope you will call on us.

AFFILIATED WITH
AMERICAN BAR ASSOCIATION

THE NATIONAL JUDICIAL COLLEGE

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WILLIAM B. LAWLESS, *Dean*
LAURANCE M. HYDE, JR., *Associate Dean*
THOMAS B. RUSSELL, *Associate Dean*

JUSTICE TOM C. CLARK, 1899-1977
Chairman of the Founders
JUDGE FRANK J. MURRAY
Chairperson, Emeritus

May 9, 1988

Honorable Howell T. Heflin, Chairman
Subcommittee on Courts and Administrative Practice
223 Senate Hart Office Building
Washington, D. C. 20510-6275

Dear Senator Heflin:

We write in support of the reauthorization of the State Judicial Institute (SJI), which your Subcommittee will consider at its May 13th hearing.

Each year, The National Judicial College graduates more than 1500 state and local trial judges from its seminars and courses, which vary in length from one week to four weeks. The dedicated men and women who attend these demanding programs do so in order to be better able to carry out their critical responsibilities to our citizens and to our system of justice. The State Justice Institute has made an excellent beginning at stimulating new methods and ideas to improve the quality of justice in our States. The need for improvement is clear, the opportunity to achieve it has already been demonstrated, and SJI's potential for future accomplishment is enormous.

The state judicial systems carry the burden of providing justice to our Nation's citizens. In order to do this job effectively, and to further relieve the federal judicial system, the judges who are the officers of state and local systems must have the fullest opportunities to continue their professional education. SJI offers the muscle and the support to those of us who seek new and improved ways to provide this education for state judges. The better the quality, education and professionalism of state judges, the greater the relief of litigation pressure upon the federal courts.

We urge the reauthorization of the State Justice Institute.

Very truly yours,

William B. Lawless

William B. Lawless

American Academy of Judicial Education
Court Improvement Through Education

Suite 824 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

May 11, 1988

Douglas Lanford
Executive Director

Chief Justice
A.W. Barney (ret.)
Associate Director

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Cumberland School of Law
Samford University
Birmingham, Alabama

Glenn R. Winters
Williamsburg, Virginia

Senator Howard Heflin
Chairman
Subcommittee on Courts and
Administrative Practice
United States Senate
Committee on the Judiciary
Washington, D.C. 20510

Dear Senator Heflin:

I have your invitation to the Academy to appear before your subcommittee to comment upon Senate Bill 1250, concerning the State Justice Institute.

We welcome your invitation. It is the first one that we have received in the approximately ten years the Judiciary Committee has been considering legislation concerning the State Justice Institute.

Your meeting is for the purpose of voting on the re-authorization of the Institute. It could provide great assistance to state judiciaries. It also could be an excellent example of how the federal government can be of appropriate assistnace to states. In this context the Academy supports the re-authorization of the State Justice Institute.

Sincerely yours,

Franklin D. Cleckley

Franklin D. Cleckley
President

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Attorney General of Iowa

IMMEDIATE PAST PRESIDENT
STEVE CLARK
Attorney General of Arkansas

March 24, 1988

The Honorable Howell Heflin
728 Senate Hart Office Building
Washington, D.C. 20510

Dear Senator Heflin:

Enclosed please find a copy of our Association's Resolution in support of the State Justice Institute, which Attorneys General recently adopted at our spring meeting. The Resolution supports a four year reauthorization and appropriation for the State Justice Institute.

With best personal regards, and

Sincerely,

Christine T. Milliken

Enclosure

cc: Attorney General Dave Frohnmayer

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Spring Meeting
March 13-15 1988
Washington, DC

IX

RESOLUTION

IN SUPPORT OF STATE JUSTICE INSTITUTE

WHEREAS, the State Justice Institute was established by Pub. L. 98-620 (42 U.S.C. 10701 et seq.) to improve the administration of justice in the State courts of the United States; and

WHEREAS, the Congress has charged the State Justice Institute to:

1) direct a national program of financial assistance designed to assure that each citizen of the United States is provided ready access to a fair and effective system of justice;

2) foster coordination and cooperation with the Federal Judiciary;

3) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

4) encourage education for judges and support personnel of State court systems; and

WHEREAS, Congress is considering reauthorization and appropriation for the State Justice Institute; and

WHEREAS, state Attorneys General, who are the states' chief legal officers, are also officers of the state courts, and frequently appear before the state judicial branch; and

WHEREAS, efforts that the State Justice Institute is charged with fostering that are designed to ensure an effective and efficient state judicial system will assist state Attorneys General in carrying out their responsibilities in both civil and criminal cases; and

WHEREAS, the Conference of Chief Justices, among others, support reauthorization and appropriation for the State Justice Institute for an additional four years; and

WHEREAS, the State Justice Institute Act will expire on September 30, 1988;

NOW, THEREFORE BE IT RESOLVED, that the National Association of Attorneys General urges the President and Congress to reauthorize the State Justice Institute for four years, and to appropriate sufficient funds to assure that the Institute can continue to fulfill its mission under the Act; and

BE IT FURTHER RESOLVED, that the Association authorizes its Executive Director and General Counsel to make these views known to the Administration, the Congress, and other interested parties.

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A PANEL CONSISTING OF HON. C.C. TORBERT, JR., CHIEF JUSTICE OF ALABAMA AND CHAIRMAN, BOARD OF DIRECTORS, STATE JUSTICE INSTITUTE, ACCOMPANIED BY DAVID I. TEVELIN, EXECUTIVE DIRECTOR, STATE JUSTICE INSTITUTE; AND HON. HARRY L. CARRICO, CHIEF JUSTICE OF VIRGINIA AND FIRST VICE PRESIDENT, CONFERENCE OF CHIEF JUSTICES

Senator HEFLIN. Chief Justice Torbert, we would be delighted to hear from you and the other members of your panel.

Chief Justice TORBERT. Mr. Chairman, on behalf of the State Justice Institute, we appreciate the opportunity, the invitation to make a very short presentation in support of our request that the enabling legislation be extended and the Institute be reauthorized for an additional period of time.

We have previously filed my written statement with this committee, and I am very pleased to have supporting the reauthorization the Hon. Harry Carrico, who is Chief Justice of Virginia, along with Dave Tevelin, who is the Executive Director of the State Justice Institute.

I want to very briefly present a justification for our reauthorization, and to give you an overview of the substantial progress that the Institute has made towards fulfilling the mission established by the Congress.

This year, in February, acting on behalf of the Board of Directors, I sent a reauthorization proposal to the President of the Senate and to the Speaker of the House which would extend the enabling legislation for a period of 4 years, through fiscal year 1992. The proposal requested the continuation of the existing 1988 appropriation authorization of $15 million for 1989 and 1990 fiscal years, with a modest increase to $20 million for fiscal years 1991 and 1992.

Mr. Chairman, title IV of S. 1250, which is cosponsored by the Chairman of the Senate Judiciary Committee, Senator Biden, the Chairman of this Subcommittee, yourself, as well as other distinguished chairmen and members of this committee, would also reauthorize the Institute through 1992, for 4 years, and its authorization is for such sums as appropriated each year.

On behalf of the Institute and the organizations that support State courts and the State courts themselves, we appreciate the sponsors 'interest in reauthorizing the Institute and the reasons in my prepared statement will fully detail that.

As you know, the Institute's fundamental mission is to award grants and enter into cooperative agreements and contracts for the purpose of improving the administration and the quality of justice in the State courts. We have been very busy in this regard.

In fiscal year 1987, our first full year of operation, we received 326 concept papers in two rounds of funding that asked for a total of $48 million. In this fiscal year, we have received 237 concept papers in our one and only round. It is the largest response by far to any of our funding cycles, and those requests total $32 million.

Well, it becomes quite obvious that, given the large number of requests and the availability of only $10 million, the award process will be extremely competitive and a substantial number of our applicants are likely to be denied assistance for promising projects of national significance. It has become eminently clear to us that there is a substantial need for a focused source of assistance to State and local courts throughout the country and that the Institute is now seen as that source.

The Board also has sought to focus the State Justice Institute programs by designating what we call areas of special interest. These categories address what in our view are the most important needs of State and local courts. For fiscal year 1988 we have designated 13 special interest categories, including: Education and training for judges and other key court personnel; the relationship between State and Federal courts; another interesting special area is the future of the courts, that we could talk about at some length; next, the application of technology in the courts; the reduction of litigation expense and delay; and the implication of our AIDS problem for the courts.

We are also undertaking a major study of judicial education to try to assure that our funds will be spent most efficiently and productively in this important area. The study should be completed in time for our fiscal year 1989 grant program, Congress willing, of course.

Mr. Chairman, despite what we think is a notable record of achievement in a very short period of time, this administration has chosen to oppose further funding for the Institute, but solely on budgetary grounds. However, I am pleased to report to the Congress and to this committee that on October 13, 1987, the Department of Justice presented a very favorable report to Congress on the Institute's effectiveness. A copy of that report is attached to my written testimony.

The Office of Management and Budget has also recently commended us for having "successfully complied with the intent of the State Justice Institute Act of 1984." Now, I gather from that, Mr. Chairman, that their concern is budgetary only and it is my and the Board's earnest hope that we might still be able to persuade this administration that the benefits we can provide the courts of this Nation and therefore the public at large far exceeds the rather insignificant financial cost of the Institute's program.

In conclusion, I appreciate the opportunity to appear for and on behalf of the Institute. I trust that this testimony demonstrates that the State Justice Institute is fulfilling the mandate of this Congress by making a substantial contribution to the improved delivery of justice by the State and local courts of the Nation.

Mr. Chairman, I would be very happy to respond to any questions from you and the Senator from South Carolina, Mr. Thurmond.

[The statement of Chief Justice Torbert follows:]

State Justice Institute

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Chief Justice, Supreme Court of Alabama
Montgomery, Alabama

Vice Chairman
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Judge, Second Judicial Circuit
Barnwell, South Carolina

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RICHARD VAN DUIZEND
Deputy Director

TESTIMONY OF THE HONORABLE C. C. TORBERT, JR.

Before the United States Senate
Committee on the Judiciary
Subcommittee on Courts and Administrative Practice

May 13, 1988

120 South Fairfax Street
Alexandria, Virginia 22314 (703) 684-6100

Good morning, Mr. Chairman. I am C. C. Torbert, Jr., Chief Justice of the Supreme Court of the State of Alabama and Chairman of the Board of Directors of the State Justice Institute. I appreciate the opportunity to appear before you today on behalf of the Institute.

In my testimony, I would like to present a justification for our reauthorization and the technical amendments requested to our enabling legislation, and give you an overview of the substantial progress the Institute has made towards fulfilling the mission established for it by Congress.

REAUTHORIZATION

On February 8, 1988, acting on behalf of the Institute's Board of Directors, I transmitted a reauthorization proposal to the President of the Senate that would extend SJI's enabling legislation for four years through Fiscal Year 1992. The proposal requested continuation of the existing FY 1988 appropriations authorization of $15 million for FY 1989 and FY 1990, with a modest increase to $20 million for FY 1991 and FY 1992.

Title IV of S. 1250, which is co-sponsored by the Chairman of the Judiciary Committee and Senator Heflin, the Chairman of this Subcommittee, as well as Senator Kennedy, Senator Metzenbaum, Senator DeConcini, Senator Leahy, Senator Simon, and

Senator Specter, would also reauthorize the Institute for four years, through FY 1992, with an authorized appropriation of $15 million for each year.

We greatly appreciate the sponsors' interest in reauthorizing the Institute and, for the reasons set forth in my testimony today, would respectfully request the Subcommittee to consider amending S. 1250 to include our requested increases in authorized appropriations for FY 1991 and 1992, and the technical amendments discussed below.

Background

The State Justice Institute was created by Congress in October 1984 to "further the development and adoption of improved judicial administration in State courts." 42 U.S.C. 10702(a). The Institute did not, however, begin to become operational until the President appointed a Board of Directors in the fall of 1986.

The Institute is authorized to award grants, cooperative agreements, and contracts for the purpose of improving the administration and quality of justice in the State courts, assuring the public ready access to a fair and effective system of justice, fostering coordination and cooperation between the State and Federal courts, and encouraging education for State court judges and court personnel. Its program covers civil as well as criminal jurisdiction, and both trial and appellate courts.

As I noted earlier, the Institute is governed by a Board of Directors appointed by the President. By law, the Board must consist of six State court judges, one State court administrator, and four members of the public. The current members of the Board of Directors are, in addition to myself:

Rodney A. Peeples, Vice-Chairman, Resident Judge, Second Judicial Circuit, South Carolina;

John F. Daffron, Jr., Secretary, Judge, Chesterfield, Virginia Circuit Court;

Larry P. Polansky, Treasurer, Executive Officer, District of Columbia Courts;

Ralph J. Erickstad, Chief Justice, Supreme Court of North Dakota;

James Duke Cameron, Justice, Supreme Court of Arizona;

Janice Gradwohl, Judge, County Court, Lincoln, Nebraska;

Lawrence H. Cooke, White, Brenner, and Feigenbaum, Albany, New York (and former Chief Judge, New York State Court of Appeals);

Daniel J. Meador, Professor of Law, University of Virginia Law School; and

Sandra A. O'Connor, States Attorney of Baltimore County, Maryland.

In addition, on April 11, the President announced the nomination of Joseph W. Brown, Esq. of Las Vegas to fill the final position on the Board.

SJI is not an agency of the Federal government; by statute, it is established as a non profit organization outside the three branches of Government. 42 U.S.C. 10702(a) and 10704(c)(1). Congress appropriated $10.98 million for the Institute in FY 1988, out of which approximately $10 million is available for grants.

Congressional Objectives

With respect to our efforts to satisfy Congress' objectives, let me first assure you that the Board of Directors is very aware that the impetus to create the Institute originated in the Congress. The Institute owes its existence to the many Senators and Representatives who provided bipartisan support for our enabling legislation and appropriations.

In particular, we must especially recognize your strong leadership, Senator Heflin. You were very instrumental in persuading your colleagues that the Institute could play an important role in the American legal system by improving both the quality of justice in the State courts and the public's confidence in the ability of those courts to dispense justice, and by finding better ways of allocating caseload burdens among the diverse Federal and State courts.

The Board of Directors and the staff of the Institute recognize that one of the fundamental justifications for Congress' enactment of the State Justice Institute Act was that financial assistance provided by the Institute to State courts and their affiliated organizations would also benefit the Federal courts and help the State courts enforce Federal constitutional and legislative requirements. Accordingly, in both Fiscal Year 1987 and Fiscal Year 1988, the Institute's Program Guideline designated projects that would "improve the administration of justice in the State courts and at the same time . . . reduce the work burdens of the Federal courts" as being of "special interest" to the Institute. The Guideline cited the following areas as particularly suited for such projects: Federal habeas corpus review of State convictions; State court civil cases where a party is also subject to a Federal bankruptcy proceeding; the adjudication of Federal law questions by State courts; and other projects designed to better allocate judicial burdens between State and Federal courts.

In addition, our Fiscal Year 1988 Program Guideline expressly states that, in reviewing concept papers and applications, the Institute will consider the extent to which the proposed project would "benefit the Federal courts or help the

State courts enforce Federal constitutional and legislative requirements."

In its Fiscal Year 1987 funding cycles, the Institute funded a number of projects that will serve a diverse array of Federal interests. Several projects are intended to reduce the workload burdens of the Federal courts, or demonstrate innovative procedures and practices that could result in increased efficiency in both State and Federal courts. Others support programs that will educate, train, and make information available to Federal judges and other court personnel. Still others are designed to help State and local courts implement the requirements of Federal legislation or to reduce the tension between Federal and State laws governing the same areas.

The following FY 1987 projects address one or more of these important State-Federal issues (the grantee is noted in parentheses):

> "The Effects of the Transfer of Diversity Jurisdiction to the State Courts" (National Center for State Courts);
>
> "State Trial Court Education Program on Farm Credit Issues" (Rural Justice Center);

"State Constitutional Law Clearinghouse" (National Association of Attorneys General);

"A Study of the Additional Costs Imposed on the North Carolina Criminal Justice System by the Death Penalty" (North Carolina Administrative Office of Courts);

"Graduate Program for Judges" (University of Virginia Law School);

"National Conference on Court Technology: Faculty Development Workshop" (National Center for State Courts);

"Judicial Education Network" (National Center for State Courts); and

"An Evaluation of the Impact of Child Support Guidelines" (Center for Policy Research).

SJI has also co-sponsored one conference and is planning to co-sponsor two more in the near future that address significant questions of interest to both State and Federal courts. The first conference, entitled the "Judicial State of the Art Conference: Presiding in Criminal Court" was held in September, 1987 and co-sponsored by SJI and the National Institute of Justice. That conference explored a broad range of important issues in the State and Federal criminal courts, including trial management techniques, the implications of AIDS, and new sentencing sanctions.

The two planned conferences are entitled "Alternative Dispute Resolution and the State Courts" (co-sponsored by SJI, the National Institute of Dispute Resolution, and the National Center for State Courts) to be held in Baltimore in November, 1988 and the "National Conference of the Judiciary on Bioethical Issues" (co-sponsored by the National Judicial College, the New Mexico University Law School, and the Women Judges' Fund for Justice under an SJI grant) to be held in Reno in May, 1989.

We are also in frequent contact with other Federal agencies (as well as private foundations) for the purpose of identifying projects that would serve our mutual interests. In addition to co-sponsoring the "State of the Art in the Courts" conference with the National Institute of Justice, SJI is co-sponsoring a grant program with the National Institute of Corrections to help State court judges understand and make better use of intermediate sentencing sanctions. We are also exploring possible joint projects with the Bureau of Justice Assistance and the Office of Juvenile Justice and Delinquency Prevention, among others. These combined efforts not only help SJI fulfill its mandate to serve a variety of Federal interests, but also maximize the impact of the funds appropriated to it by Congress.

FY 1988 Program Guideline

I have made passing reference to our FY 1988 grant program. Please allow me to elaborate a bit more fully on our FY 1988 program guideline and the State court community's response to it.

The Institute has sought to focus its program by designating "special interest" program categories that address the most important needs of the State and local courts. For FY 1988, SJI designated the following areas as "special interest" categories:

Education and training for judges and other key court personnel;
The relationship between State and Federal courts;
Evaluation of alternative dispute resolution programs;
The future and the courts;
The application of technology in the courts;
Jury system management;
Reduction of litigation expense and delay;
Enforcement of fines and orders to pay;
The implication of AIDS for the courts;
Programs and procedures for victims and witnesses;
Courthouse security and operation;
Judicial career enhancement; and
The special needs of the largest urban trial courts.

The final guideline was published on March 1, 1988 and requested concept papers by April 11, 1988. We received 236 papers (including 15 requests for continuation of FY 1987 grants) asking for a total of over $32 million. This was the largest response to any of our announced funding cycles: 193 papers were received in Round 1 of FY 1987 and 133 in Round 2.

Given the large number of requests and the availability of only $10 million in grant funds, the award process will be extremely competitive and a substantial number of those seeking funding are likely to be denied assistance for promising projects of national significance. It has become eminently clear to the Board that there is a substantial need for a focused source of assistance to the State and local courts throughout the country. It is also clear that the Institute is now seen as that source.

As noted above, SJI grants are awarded on a competitive basis. All applicants must first submit a concept paper to the Institute which is evaluated on the basis of the following criteria: the demonstration of need for the project; the innovativeness and feasibility of the approach described; the benefits to be derived from the project; and the reasonableness of the proposed budget. The Board invites the most promising concept papers back as formal applications.

Applications are rated on the same criteria as concept papers as well as the following factors: the qualifications of the project's staff; the products resulting from the project; and the demonstration of cooperation and support of other affected agencies. All projects must include an evaluation that will permit other courts to determine whether the project's objectives could work in their jurisdictions. In addition, the results of all research projects must be made available to the courts community in the form of a journal article, guidebook, or manual.

The Board of Directors has the ultimate responsibility for deciding which applications will be approved as grants. The Board will meet in August to make the Fiscal Year 1988 grant awards.

TECHNICAL AMENDMENTS

These amendments are important to the efficient administration of the SJI grant program. The section numbers cited below refer to the sections of our February 8 executive transmittal to the President of the Senate.

Section 201 amends the rulemaking provision of the State Justice Institute Act of 1984 (SJIA) to conform it with the provisions of the Administrative Procedure Act, 5 U.S.C. 553(d), that govern rulemaking by Federal agencies. Section 203(f) of the SJIA requires the Institute to publish all "rules, regulations, guidelines, and instructions" in the Federal Register 30 days prior to their effective date, without exception. The APA, however, subjects only "substantive rules" to those requirements and, more importantly, permits agencies to waive the 30-day delay requirement for "good cause found and published with the rule." The requested amendment will remove an impediment to the Institute's establishment of an efficient and orderly grant program.

Section 202 amends section 205(d)(2) of the State Justice Institute Act to make Institute employees eligible for coverage under the Federal Employees' Retirement System established under chapter 84 of Title 5, United States Code.

This amendment is intended to automatically extend Federal Employee Retirement System (FERS) coverage to Institute employees hired after the effective date of the amendment and to enable current Institute employees to have the same choice of retirement plans that Federal employees had after the enactment of FERS.

The SJIA currently treats Institute employees as Federal employees for the purpose of the Civil Service Retirement System (chapter 83 of Title 5, United States Code), as well as for health insurance, life insurance, and workers' compensation. Although the present language of the Act is susceptible to an interpretation that SJI employees are eligible for FERS coverage, the Office of Personnel Management has advised the Institute that it does not consider our employees eligible for FERS (chapter 84) coverage.

In order to attract and retain Federal employees for positions with the Institute, and to treat fairly those former Federal employees now employed by the Institute, the availability of the FERS retirement option is crucial. The proposed amendment makes FERS eligibility unambiguous for Institute employees. Because of the complexity of this issue, we will be sending the Subcommittee a separate letter on this subject in the very near future.

Section 203 makes three minor changes in the scope of the Institute's funding authority. The first amendment clarifies section 206(c)(3) of the Act (42 U.S.C. 10705(c)(3)), which presently authorizes the Institute to, among other things, support "research on alternative means for using nonjudicial personnel in court decisionmaking activities." The amendment would insert the words "judicial and" between "using" and "nonjudicial personnel" to assure that the Institute could support research projects that involve judicial personnel, such as judges and clerks, in alternative dispute resolution projects. Because many alternative dispute resolution programs involve oversight or direct participation by judges and clerks, their involvement in such projects is often critical to their success. This amendment would, therefore, clarify that the Institute could award funds to an applicant to support the involvement of judicial personnel in such a project.

The second amendment would eliminate section 206(c)(4) of the SJIA (42 U.S.C. 10705(c)(4)) as an area of Institute funding. That section permits Institute funding to be used to "assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds." When the State Justice Institute Act was originally drafted in the 1970's, the section in question was apparently contemplated as a means of helping State courts that had never received funding from the Law Enforcement Assistance Administration (LEAA) qualify for its grants. At this time, however, neither LEAA nor its onerous administrative requirements exist. As a result, any justification for this provision is now absent.

The third amendment renumbers the remaining paragraphs of section 206(c) in light of the deletion of paragraph (4).

Section 204 of the transmittal is no longer required in light of a March 28, 1988 memorandum of understanding between the General Services Administration (GSA) and SJI that allows the Institute to pay vendors and grantees from a commercial checking account drawn against a letter of credit with GSA.

Section 205 amends section 206(d) of the State Justice Institute Act to make the 50% matching fund requirement imposed on State judicial systems applicable to units of other branches of State and local governments as well.

The SJIA requires State courts receiving Institute grants to contribute matching funds in an amount equal to 50% of the amount of the grant. Although other units of government are also eligible to receive Institute grants, the statute imposes no match requirement upon them. This leads to the anomalous result that the State courts, the intended primary beneficiaries of the Act, are required to provide a significant match, but other governmental units such as law enforcement agencies and departments of correction, are not.

This anomaly could lead State governments to submit applications for Institute funding through those entities not required to provide match, thereby undercutting the intentions of Congress to make Institute funds primarily available to State courts and to make public agency recipients provide a financial commitment to funded projects.

Section 206 amends section 207(a) of the State Justice Institute Act to eliminate the requirement that the Institute continue interim funding, until after the conclusion of a formal administrative hearing, to a recipient whose application for refunding has been denied by the Board of Directors.

The section in question (42 U.S.C. 10706(a)(3)) and 42 U.S.C. 10708 (deleted by section 207 below) pose a serious threat to the Institute's ability to set funding priorities and respond to the needs of the State courts. These provisions derive from the Legal Services Corporation (LSC) statute upon which the State Justice Institute Act was modeled. See 42 U.S.C. 2996j. They were apparently intended to protect LSC grantees from arbitrary or unwarranted termination of funds. No other Federally-chartered grantor agency is, however, subject to such burdensome requirements. They are especially inappropriate for a new agency that is charged with the responsibility of responding to the special needs and interests articulated by its intended recipients. The "guaranteed refunding" provisions could be invoked by disgruntled or non-performing grantees to require the Institute to continue large portions of its funding to courts or organizations who no longer need or deserve support and, at the same time, to prevent the Institute's limited resources from serving the true needs of the State judiciaries.

Section 207 amends section 209 of the State Justice Institute Act by deleting current section 209(2), which establishes special hearing procedures for recipients whose applications for refunding have been denied, and by adding a new section 209(b) to protect the confidentiality of information made available to persons conducting research under a grant from the Institute.

The deletion of section 209(2) would eliminate the special hearing procedures discussed above in connection with section 206 of the technical amendments.

Paragraph (b) is intended to protect the confidentiality of information made available to persons conducting research under a grant from the Institute. The provision is substantially identical to the confidentiality provision governing research conducted under grants from the National Institute of Justice and other Department of Justice grant agencies. See 42 U.S.C. 3789g(a).

This section not only serves the privacy interests of the persons who are the subject of Institute-sponsored research, but protects the researcher and the court, organization, or individual making available the underlying information as well. The researcher will be able to ensure the cooperation of the research subject and the information provider by assuring the confidentiality of the information against both voluntary and involuntary disclosure. In addition, the amendment helps assure the credibility of the research by promoting cooperation and frankness on the part of persons asked to provide records or opinions to the researcher.

The court or other entity providing the information would have a clear statutory basis for immunity from liability arising from unauthorized disclosure of protected information by the researcher or third parties. Without the protection provided by this section, a court might, with good reason, deny researchers access to its records and therefore prevent valuable findings or recommendations from coming to light.

ADMINISTRATION POSITION

Regrettably, the Administration has chosen to oppose further appropriations for the Institute, solely on budgetary grounds. However, on October 13, 1987, Attorney General Meese presented a very favorable report to Congress on the Institute's effectiveness. A copy of that report is attached to my written testimony. The Office of Management and Budget has also recently commended SJI for "having successfully complied with the intent of the State Justice Institute Act of 1984." It is my earnest hope that we might still be able to persuade the Administration that the benefits we can provide the courts of this nation, and the public at large, far exceed the relatively insignificant financial costs of the Institute's programs.

Thank you again for the opportunity to appear on behalf of the Institute. I hope my testimony demonstrates that SJI is fulfilling the mandate of Congress and making a substantial contribution to the improved delivery of justice by the State and local courts of this nation. I would be happy to respond to any questions you may have about SJI or its programs.

ATTACHMENT

Office of the Attorney General
Washington, D.C. 20530

OCT 13 1987

The Honorable Peter W. Rodino, Jr.
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to Section 213, 42 U.S.C. § 10712 of the State Justice Institute Act of 1984, attached is a report on the effectiveness of the State Justice Institute. This report, prepared in consultation with the Federal Judicial Center, assesses the activities of the State Justice Institute since its inception.

We are pleased to present this report and trust that you will find it informative.

Sincerely,

Edwin Meese III
EDWIN MEESE III
Attorney General

Attachment

Office of the Attorney General
Washington, D.C. 20530

OCT 13 1987

The Honorable Joseph R. Biden
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

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Edwin Meese III

EDWIN MEESE III
Attorney General

Attachment

REPORT ON THE
STATE JUSTICE INSTITUTE

The State Justice Institute Act of 1984, passed on November 8, 1984, established the State Justice Institute (the Institute) for the purpose of furthering the development and adoption of improved judicial administration practices in State courts in the United States. The Act authorized appropriations for the Institute for three years, with a ceiling of $13 million for Fiscal Year 1986 and $15 million each for Fiscal Years 1987 and 1988.

The Institute, which is a private, nonprofit corporation, is supervised by a Board of Directors, consisting of eleven members, appointed by the President, with advice and consent of the Senate. An Executive Director heads the Institute, serving at the pleasure of the Board. The Executive Director is a nonvoting, ex officio member of the Board.

The provisions of the Act took effect on October 1, 1985. However, the Institute did not become operational until Fiscal Year 1987. Members of the Board of Directors were nominated in July 1986 and on September 29, 1986, nine members were sworn in by Chief Justice Burger. Since then, one other member has been confirmed, which leaves one more to be nominated and confirmed. On the same day the Board was sworn in, the Institute was incorporated in the Commonwealth of Virginia. The Institute is located at 120 S. Fairfax Street, Alexandria, Virginia.

Because neither the Institute's authorizing statute nor its original appropriation permitted Fiscal Year 1986 funds to be expended after the end of that fiscal year, the $7.6 million appropriated for FY 1986 lapsed on September 30, 1986, and was returned to Treasury. Therefore, the Institute actually began operations in Fiscal Year 1987, the second year of its three-year authorization.

On the day the members were sworn in, the Board held its first formal meeting and began preliminary work on budget projections and program design. It also authorized a nationwide search for an Executive Director for the Institute. An Executive Director and Deputy Director were selected and brought on board in February 1987.

By March 1987, the Institute was fully staffed and operational. This select staff of eleven, with a start-up budget of $7.2 million, began immediately to organize and establish policies, procedures, and guidelines to ensure a national assistance program that meets the mandates and objectives of the Act and the needs of the State courts.

Although the Institute has only recently begun implementation of its program, much has been accomplished since it began operation. The Institute has made diligent efforts to develop and implement effective policies, procedures, and guidelines which will direct the Institute and its grantees in their efforts to enhance the quality of justice in the State courts and the public's confidence in the ability of those courts to dispense justice.

The Institute decided to award its Fiscal Year 1987 program funds in two rounds of funding. This was done to inform the Congress and the public of the Institute's grant program as soon as possible, to provide funds quickly to those potential applicants who had started preparing concept papers early (upon passage of the Act), and to test the grant procedures and guidelines, while retaining part of the funds to ensure funding balance among recipients and program areas. This seemed practical and efficient since Fiscal Year 1987 funds are "no-year" funds and, therefore, are available until expended.

In December 1986, the Institute's Board of Directors developed and circulated a draft program policy statement which described how the Institute intended to proceed with its first year funding of programs. Comments and suggestions were solicited from organizations and individuals concerned with improving the quality of justice administered by State courts. The end result was a Program Guideline describing the Institute's programs and inviting grant applications.

The Institute published its first Program Guideline on March 9, 1987, in the Federal Register, announcing the program areas for which funding is available, presenting a list of "special interest" areas, outlining requirements and procedures for funding, and soliciting concept papers for Round One. The Program Guideline established several areas of special interest, based upon the needs and interests identified by the State courts and State court organizations. However, special care was taken to make it clear that these areas were not exclusive. Applications were invited for every funding area authorized under the legislation to ensure that the courts brought to the Institute's attention other areas of interest to the State courts.

The special interest areas, established by the Board of Directors, were based upon the expressions of need coming from the State courts and their allied judicial and professional organizations. These special interest areas are:

- Education and training programs for judges, including the development of innovative training materials and curricula and the preparation of State court education plans;

- Programs to substantially reduce expense and delay in litigation;

- Implementation and evaluation of dispute resolution methods that have a substantial likelihood of resolving disputes more fairly, more expeditiously and less expensively than the traditional judicial process;

- The use of technology to improve the operation of court management systems at both the trial and appellate levels;

- Programs designed to ensure fairer treatment of victims of crime and witnesses in both criminal and civil cases;

- Innovative research programs designed to result in the improved administration of justice in the State courts and the reduction of work burdens on the Federal courts. Such research could address issues related to the conduct of multistate litigation in the State courts, a reduction of difficulties associated with Federal habeas corpus writs involving State convictions, and studies of the impact of Federal diversity jurisdiction on the State courts;

- Development and implementation of innovative measures to encourage and enhance judicial careers;

- Implementation and evaluation of legal and administrative procedures relating to jurors that will improve the jury system process;

- Implementation and evaluation of procedures for effectively imposing, collecting, and enforcing orders to pay fines, restitution, assessments, and other monetary penalties or obligations;

-

- Implementation and testing of innovative court procedures for handling domestic violence cases effectively and expeditiously; and

- Technical assistance to transfer effective programs and procedures in any of the other "special interest" categories to other jurisdictions.

The April 17, 1987, deadline for concept papers resulted in 193 papers being submitted, requesting approximately $31 million. Courts in 25 States submitted papers, despite the short turnaround time for submission and the necessity for having their concept papers approved by their respective State Supreme Courts.

After an initial review of the concept papers by the Institute staff, the Board met on May 21-22, 1987, to consider the papers and selected 36 papers to be submitted as formal applications. In addition, 23 concept papers, submitted by five major judicial educators, were held until a meeting of those five organizations occurred on June 17, 1987, to determine whether, and to what extent, coordination among them might lead to improved judicial education and the most efficient use of Institute funds. These same educators later submitted 15 proposals, with five being joint efforts. Ultimately, 51 applications were submitted and 32 have been selected for funding, for a total of approximately $2.8

million. Six of these grants will support projects conducted by State court systems to improve court administration, training, and services in eight States.

The Board also approved a number of awards to major organizations serving the State Judiciaries -- including the National Center for State Courts, the National Judicial College, and the American Bar Association -- that will result in training, technical assistance, research, and other support for the State courts. The awards are subject to the resolution of programmatic and financial issues raised at the August 17-18 Board meeting. It is anticipated that the majority of the awards will be made by September 30, 1987. Ten applications were rejected and nine have been deferred to Round Two. These awards will conclude the initial round of funding for Fiscal Year 1987, the Institute's first year of operation. On September 18, 1987, 132 concept papers, initiating the second and final round of FY 1987 funding, were received, with applications due in February 1988 and awards planned for March 1988. The Round Two concept papers requested a total of approximately $17 million.

The Institute has established an effective system of internal control by developing procedures and guidelines for its staff and grantees that ensure its resources are protected against fraud, waste, abuse, and mismanagement. An application review process has been developed by the Institute which is both expeditious and conducive to careful and informed decisionmaking and which does not impose undue burdens and complexities upon the applicants. A proposed Grant Guideline was published in the Federal Register, on May 11, 1987, to solicit input from courts, judicial organizations, and other interested parties. The final Guideline was published on July 13, 1987. This Guideline sets out the programmatic, fiscal, and administrative requirements of Institute grants, while imposing only those controls and requirements necessary to ensure accountability and prudent use of public funds.

The Board of Directors of the State Justice Institute is very active and supportive in its role of supervising the Institute. In addition to those duties and functions outlined in the State Justice Institute Act, the members of the Board devote much of their time and effort to actively participating in the grant review and selection process. For example, the Board reviews concept papers and selects those potential applicants from which formal applications are requested. Further, the Board reviews applications and selects only those of the highest quality for award. In order to accomplish this, the Board met eight times during the past year, although the Act requires that it meet only four times annually. As further indication of the Board's dedication and concern for integrity, the Board voluntarily developed and adopted comprehensive and strict Standards of Conduct to guide the members of the Board in performing their duties.

The Institute recognizes the importance of coordination among State and local justice system agencies and, therefore, encourages cooperative efforts among these agencies that will substantially improve the delivery of justice in State and local courts across the nation. One example of this is a grant proposed for funding this September which will establish a Judicial Education Network, comprised of the National Center for State Courts, the National Judicial College, the National Council of Juvenile and Family Court Judges, the National Association of State Judicial Educators, and the American Academy of Judicial Education. This grant is a followup to the Institute's invitation to these organizations to meet at the Institute to explore to what extent collaboration and coordination might be achieved by Institute funding.

Another example of effective coordination is a grant proposed for funding which will provide for a three-state judicial writing project, designed by the States of Georgia and Colorado. The project evolved as a result of separate, but similar, concept papers submitted by the two States. At the Board's request, Georgia and Colorado collaborated to prepare a single application, which was tentatively approved for funding at the August Board meeting. The project will train judges from Georgia, Colorado, and Nebraska.

In addition to the coordinated efforts mentioned above, the Board tentatively approved a grant, based on an application submitted by the Kansas Administrative Office of the Courts, that will enable the court administrative staffs of Kansas, Iowa, Missouri, and Nebraska to meet in order to identify problem areas and programs and procedures adopted by one or more of the States addressing these areas, and to provide technical assistance to each other.

The Institute's coordination efforts extend to many Federal agencies, including the Federal Judicial Center, as well as to public and private organizations. The Institute is actively coordinating with the Department of Justice's Office of Justice Programs (OJP), particularly with OJP's Bureau of Justice Assistance and the National Institute of Justice. For example, the Institute provided cooperation and financial support to the National Institute of Justice for its Judicial State of the Art Conference, held on September 19-23, 1987, in Phoenix, Arizona.

As directed by the State Justice Institute Act, this report was prepared in consultation with the Federal Judicial Center. We appreciate the contributions made by the Center and by Judge Alvin B. Rubin of the United States Court of Appeals for the Fifth Circuit and Judge Jose A. Cabranes of the United States District Court for the District of Connecticut, both members of the Federal Judicial Center's Board of Directors.

The Act requires that this report include an assessment of the cost-effectiveness of the program as a whole and of its grants and whether the limitations and restrictions specified in the Act have been respected. The Federal Judicial Center agrees with us in stating that a full assessment cannot be made until after the Institute's grants have been awarded and program implementation has truly begun. However, with respect to the restrictions and limitations outlined in the Act, the Institute has been in compliance.

The Department of Justice appreciates the opportunity to review the activities of the State Justice Institute.

Senator HEFLIN. Senator Thurmond has arrived. Do you have a statement that you would like to make?

Senator THURMOND. We are very pleased to have you with us. I am sure that it is nice to appear before your presiding officer from your home State.

Chief Justice TORBERT. Yes, sir.

Senator THURMOND. He is a very able member of this committee who is making a fine contribution here.

I have got to be on the floor in connection with the Armed Services bill in just a few minutes. I am just going to ask that my statement be put in the record, but I just want to say that I endorse what you advocate.

Chief Justice TORBERT. Thank you very much, Senator.

Senator THURMOND. Thank you, Mr. Chairman.

Senator HEFLIN. Your statement will be placed in the record.

[The statement of Senator Thurmond follows:]

PREPARED STATEMENT OF SENATOR STROM THURMOND

Mr. Chairman, I am pleased to be here this morning for the hearing on S. 1250, the Criminal and Juvenile Justice Partnership Act of 1987. Today, we are focusing on the provisions of the bill which deal with reauthorization of the State Justice Institute and funding for grants to state and local law enforcement agencies.

I am impressed with the work that the State Justice Institute has done in its short time in existence and I look forward to hearing more about your activities. A judge from South Carolina, Judge Rodney Peeples, serves as Vice Chairman of the Institute.

With regard to the members of the law enforcement community that are here today, it is especially good to have you here. You are on the front lines day in and day out and are best able to tell us of your needs. I have always been supportive of law enforcement efforts and as well have supported funding from the regional information sharing systems. It is important that you have the tools necessary to perform your jobs. I understand that the Department of Justice is now recommending that this program receive funding for 1989.

With regard to the importance of sharing vital information between law enforcement agencies, this bill includes a provision in Subtitle F of title II which will permit access by private university or college police and railroad police to Federal government criminal identification records maintained at the National Crime Information Center. This provision is similar to S. 238 which I introduced on the first day of this Congress. Hearings were held on this bill in the 99th Congress; however, no further action was taken. Access to criminal identification records would contribute immeasurably toward protecting the welfare and safety of patrons and campus students at private universities and colleges and will protect cargo shipments on our nation's railway system. This is a necessary and important provision which I am pleased is included in this measure.

I thank the witnesses for coming and I look forward to hearing from you today.

Senator HEFLIN. We will go ahead with the other members. Mr. Chief Justice, we are delighted to see you here representing the Commonwealth of Virginia and also the Conference of Chief Justices.

Chief Justice CARRICO. Thank you, sir. I am delighted to be here, Mr. Chairman. As you know, I do represent the Conference this morning and I would note for the record that the Conference is composed of the highest judicial officers of the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and American Samoa, so we have got them all in our organization.

I am pleased to be the Conference's spokesman, for two reasons: First, it gives me the opportunity to reaffirm my strong personal support for SJI as well as that of the Conference of Chief Justices.

Second, Mr. Chairman, my appearance continues a tradition of sorts because my predecessor as Chief Justice of Virginia, the Honorable Lawrence W. I'Anson, was Chairman of the Conference of Chief Justices in October of 1979, when you, Mr. Chairman, conducted the first hearing on the State Justice Institute Act with Chief Justice I'Anson as the very first witness. I am therefore pleased to follow in his footsteps as the Conference's witness at this, the first hearing on the reauthorization of the SJI.

You opened that initial hearing, Mr. Chairman, by saying that, "The quality of justice in the United States is largely determined by the quality of justice in our State courts." You went on to say that "State courts share with the Federal courts the awesome responsibility for enforcing the rights and duties of the Constitution and laws of the United States," noting that Federal court decisions and Acts of Congress had greatly contributed to the caseloads as well as the responsibilities of State court systems.

I hope you will forgive me for using your language, sir, but I believe those simple statements of fact are as relevant——

Senator **Heflin**. Keep going. [Laughter.]

Chief Justice **Carrico**. I think they are as relevant today as they were when you said them at that very first hearing. They also remind us of the long and complex series of events which led the Conference of Chief Justices and the Conference of State Court Administrators to recommend creation of the Institute. I do not propose to review that history in any detail, but I think it is important that we remember where we came from if we are to know where we want to go.

We must not forget that the concept of a State Justice Institute was developed by judges and court administrators after years of experience with Federal programs for the improvement of State and local justice systems, programs which the courts found helpful, but less helpful than they might have been, and which caused concern because they threatened the independence of the judiciary by placing them under the control of officials of the executive branch at both the State and national levels of government.

Legislation approved on November 8, 1984, by Congress met these concerns by creating the Institute as an independent nonprofit corporation governed by a Board of Directors with judges having majority control. These judges are appointed by the President from a panel of nominees submitted to him by the Conference of Chief Justices after consultation with all interested national bar and judicial organizations. The Board is representative of trial and special courts as well as the courts of appeals and reflects the needs of rural as well as metropolitan jurisdictions. The Institute is further insulated from executive branch control by having the authority to submit its annual budget requests directly to Congress.

Despite the limited experience with actual operations, the Conference of Chief Justices has been very much impressed with the speed, efficiency, and dedication with which SJI's Board of Directors has set to work and with the excellent professional staff they have assembled. We do not, of course, have details on all the operations of the Federal Government, but we would find it hard to believe that there is a leaner or more effective operation anywhere in the vast system than the State Justice Institute. Their program guidelines and other notices are models of clarity and precisely reflect the needs of their constituencies and the letter and spirit of the authorizing legislation.

It is clear, I think, Mr. Chairman, that the SJI is filling a great institutional void and meeting a great national need. The volume of meritorious concept papers, as Chief Justice Torbert has said, far exceeds the limited funds available to the Institute. This gap seems certain to spread as the Institute further develops its program and it becomes known to a wider range of potential applicants. There is, of course, no end to the work that could be done and we are pleased that this promising beginning has been made.

We have been fortunate in Virginia, Mr. Chairman, to be the recipient of funds from the SJI for several programs which we think are noteworthy, including a graduate program for judges at the University of Virginia Law School and the Commission on the Future of Virginia's Judicial System. Other grants have been received for a law clerk training program at the T.C. Williams School of Law at the University of Richmond, by Court Studies, Inc., of Williamsburg, and by the National Center for State Courts, also of Williamsburg.

In conclusion, Mr. Chairman, I can only express the Conference's deep appreciation to you and the other supporters of the State Justice Institute for the opportunity you have given it and urge you to continue your support by reauthorizing it for an additional 4 years at the funding levels requested by the Institute's Board.

I thank you for the opportunity to appear and I would be glad to answer any questions you may have, sir.

[The statement of Chief Justice Carrico follows:]

STATEMENT OF

THE CONFERENCE OF CHIEF JUSTICES

ON

REAUTHORIZATION OF THE STATE JUSTICE INSTITUTE

BEFORE THE

SENATE JUDICIARY SUBCOMMITTEE ON COURTS

AND ADMINISTRATIVE PRACTICE

May 13, 1988

Mr. Chairman and members of the subcommittee. I am Harry L. Carrico, Chief Justice of the Supreme Court of Virginia and First Vice-president of the Conference of Chief Justices (CCJ) on whose behalf I appear today. The Conference is composed of the highest judicial officers of the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and American Samoa.

I am pleased to be the Conference's spokesman at this reauthorization hearing on the State Justice Institute Act for two reasons. First, it gives me the opportunity to reaffirm my strong personal support for the SJI as well as that of the Conference. Second, my appearance continues a tradition of sorts because my predecesor as Chief Justice of Virginia, the Honorable Lawrence W. I'Anson, was chairman of the Conference of Chief Justices in October of 1979 when you, Mr. Chairman, conducted the first hearing on the State Justice Institute Act with Chief Justice I'Anson as the first witness. I am therefore pleased to follow in his footsteps as the Conference's witness at this, the first hearing on reauthorization of the Act.

You opened that initial hearing, Mr. Chairman, by saying that, "The quality of justice in the United States is largely determined by the quality of justice in our state courts." You went on to say that "State courts share with the federal courts the awesome responsibility for enforcing the rights and duties of the constitution and the laws of the United States", noting that federal court decisions and acts of Congress had greatly contributed to the caseloads as well as the responsibilities of state court systems.

I hope you will pardon me for borrowing your language but I believe those simple statements of fact are as relevant today as they were at that first hearing. They also remind us of the long and complex series of events that led the Conference of Chief Justices and the Conference of State Court Administrators (COSCA) to recommend creation of the Institute. I do not propose to review that history in any detail but it is important that we remember where we came from if we are to know where we want to go.

We must not forget that the concept of a State Justice Institute was developed by judges and court administrators after years of experience with federal programs for the improvement of state and local justice systems, programs which the courts found helpful, but less helpful than they might have been, and which threatened the independence of the judiciary by placing them under the control of officials of the executive branch at both the state and national levels.

You will recall that these issues were addressed by a joint Task Force of the CCJ and COSCA with Prof. Frank J. Remington of the University of Wisconsin Law School, and the late Ralph N. Kleps, one of the nation's leading experts on court administration, serving as advisors. It was the report of that Task Force, under the chairmanship of then Chief Justice Robert F. Utter of the Supreme Court of Washington, that provided the scholarly analysis and rationale that led us to propose the State Justice Institute in much its present form. There was general agreement that federal funding, if properly administered, was necessary to achieve critical national goals for the improvement of state court systems that would provide vital assistance to the federal courts as well. The key concerns were: (1) that a federally funded program for the improvement of state courts not be structured so as to violate the separation of powers doctrine and thereby threaten the independence of those courts; (2) that it be able to address the problems of state court systems as integrated wholes, i.e., that it not be limited to certain criminal or civil justice issues as were other federal programs; and (3) that it be able to develop a long-range program including a continuing concern for the role of state courts in our federal system.

The legislation Congress approved on November 8, 1984 met all those concerns by creating the Institute as an independant non-profit corporation governed by a board of directors with judges having majority control. These judges are appointed by the President from a panel of nominees submitted to him by the Conference of Chief Justices after consultation with all interested national bar and judicial organizations. The board is representative of trial and special courts as well as the courts of appeals and reflects the needs of rural as well as metropolitan jurisdictions. The Institute is further insulated from executive branch control by having the authority to submit its annual budget requests directly to Congress.

You know, perhaps better than anyone, Mr. Chairman, the great effort that went into passage of the original Act. There is a massive hearing record compiled by both the House and Senate Judiciary Committees in the 96th, 97th, and 98th Congresses. It deals in great detail with the peculiar mix of issues involving federalism, the separation of powers, and the various relationships between state and federal courts that make the State Justice Institute, in our view, a unique national agency to meet a unique national need.

We have described this legislation as a landmark of major significance in the history of our justice system and we still are of that view. It was designed to deal with a complex of issues that are indeed unique to an appropriate relationship between state court systems and the federal government. It recognizes as it must that state judiciaries play a fundamental role in what is, in the final analysis, a delicately balanced national judicial system involving both the state and federal courts. The importance of this fact, we believe, is attested by the support the legislation received from former Chief Justice Warren E. Burger, the Judicial Conference of the United States, and the American Bar Association as well as many related organizations of state judges, court administrators, and others concerned with the administration of justice. The legislation also has had, we are pleased to say, broad bipartisan support in both the House and Senate including the chairmen and ranking members of the Judiciary Committees and the Subcommittees on Courts.

Unfortunately, the Institute did not become operational for more than a full year after the effective date of the legislation because of delays in appointing the board of directors. This caused the Institute to lose its first year of funding, the $7.6-million Congress appropriated for Fiscal 1986.

Nevertheless, the Institute was able to mount an impressive program for Fiscal 1987 and now is well positioned to extend operations into its second full year.

Despite the limited experience with actual operations, the Conference of Chief Justices has been impressed, Mr. Chairman, with the speed, efficiency, and dedication with which its board of directors set to work and with the excellent professional staff they have assembled. We do not, of course, have details on all the operations of the federal government but we would find it hard to believe there is a leaner or more effective operation anywhere in that vast system than the State Justice Institute. Their program guidelines and other notices are models of clarity and precisely reflect the needs of their constituencies and the letter and spirit of the authorizing legislation.

As I have indicated, Mr. Chairman, we have had only one full year of experience with the actual operations of the Institute, but we can see the outlines of the program we have long anticipated, particularly in the area of state-federal jurisdiction, and are pleased to see that this area has been given special emphasis with important research now underway. We also are pleased that the Institute is playing an important role in bringing about a greater degree of coordination, and thus efficiency, in the existing network of national education and training programs that are so vital to improving the quality of the judiciary. In other areas the Institute is providing critically needed support for national data gathering and clearinghouse operations that make available to all court systems the latest research and statistics on the full range of court improvement efforts undertaken nationally. Support for these ongoing activities is essential, Mr. Chairman, if we are truly to bring the benefits of new research and technology to bear on the operation of courts throughout the nation and to achieve those economies of scale which justify national programs and funding. In short, the Institute is beginning to fulfill the great hopes we all had for it and shows every sign of continuing to do so.

I should emphasize at this point how important it is that the Institute is directed by sitting judges whose daily experience informs them on the problems the Institute was designed to address. Unlike other federal programs, often run by technicians with no experience in the law or judicial administration, the State Justice Institute is guided by the expert but practical knowledge of those it serves. Thus, the Institute has been responsive to the actual needs of the courts as no previous federal program has been. This fact is reflected in many ways.

For instance, it is reflected by the kinds of programs selected for priority funding under the board's "Special Interest" category. These programs also have real priority among judicial administrators themselves and clearly respond to their needs. No doubt this is due to the fact that the board has made genuine efforts to solicit comments on its plans and to respond appropriately when comments are made. This, too, is a new experience for many of us who worked with other federal programs in the past. The SJI has, then, been responsive to the needs of the courts as these needs are defined by the officials most directly responsible for them. Clearly, that was one of the things we had in mind.

It also is clear, Mr. Chairman, that the Institute is filling a great institutional void and meeting a great national need. The volume of meritorious concept papers far exceeds the limited funds available to the Institute. This gap seems certain to spread as the Institute further develops its program and it becomes know to a wider range of potential applicants. There is, of course, no end to the work that could be done and we are pleased that this promising beginning has been made.

We in Virginia have better reason than most, I might add, to be pleased with this beginning. Several very important projects have been funded in my state including the highly regarded Graduate Program for Judges at the University of Virginia Law School in Charlottesville and a number of very significant projects at the National Center for State Courts in Williamsburg. In addition we have received funding for the innovative work of our Commission on the Future of Virginia's Judicial System. There also is a very helpful Law Clerk Training Program underway at the T.C. Williams School of Law at the University of Richmond as well as a new project at Court Studies, Inc. in Williamsburg.

The Conference of Chief Justices has not taken a position on the technical amendments proposed by the SJI board but we certainly would have no objection to them, particularly the requirement that government agencies, other than courts, meet the 50 percent match requirement. Otherwise, Mr. Chairman, we think experience to date, however limited, attests to the general soundness of the original Act and the Institute as presently structured. Further experience may suggest a need for amendments to meet changing requirements and conditions. But these will be the subject for another day.

In the meantime I can only express the Conference's deep appreciation to you and other supporters of the State Justice

Institute for the opportunity you have given it and urge you to continue your support by reauthorizing it for an additional four years at the funding levels requested by the Institute's board.

Thank you for the opportunity to be here today. I will be pleased to respond to any questions you may have. The Conference of Chief Justices' policy statement on the reauthorization is appended to my statement.

RESOLUTION XVIII

Committee on State-Federal Relations

State Justice Institute

WHEREAS, the State Justice Institute was created to fill a critical gap in our federal system by providing an appropriately structured national mechanism for improvement of the nation's judicial systems; and

WHEREAS, no other institution, public or private, is capable of addressing the complex mix of relationships between the federal government and state judicial systems in a manner consistent with the principles of federalism and the separation of powers doctrine; and

WHEREAS, state and federal courts are components of an increasingly uniform national system of justice whose problems are closely related; and

WHEREAS, the State Justice Institute in its first full year of operation has supported valuable projects meeting the most critical needs of the nation's judiciary; and

WHEREAS, the project supported by the Institute serve the interests of the Federal Government by helping state courts implement federal policy and by demonstrating procedures and programs that can benefit the federal courts as well as state court systems; and

WHEREAS, the Conference of Chief Justices, with the assistance of the Conference of State Court Administrators, the American Bar Association, the Judicial Conference of the United States, and other organizations of the bench and bar, worked diligently for the creation of the Institute to appropriately address problems of national concern in the administration of justice; and

WHEREAS, the State Justice Institute Act will expire on September 30, 1988;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices urges the President and Congress to reauthorize the Institute for an additional four years and to provide a level of funding that will assure the Institute can fulfill its mission to improve the quality of justice administered by the courts of the nation.

Proposed by the Committee on State-Federal Relations of the Conference of Chief Justices at the Eleventh Midyear Meeting in Williamsburg, Virginia, on January 28, 1988.

Senator HEFLIN. Thank you, sir.

Mr. Tevelin, we would be glad to hear from you.

Mr. TEVELIN. Chief Justice Torbert, as usual, has spoken very ably on behalf of the Institute and I have nothing to add to his statement.

Thank you.

Senator HEFLIN. The Office of Management and Budget has transmitted a proposal to the Senate which would repeal the statutory authority for the Institute. According to the OMB, the Institute is a non-essential Federal activity which should be funded by the State courts. How do you respond to OMB?

Chief Justice TORBERT. Mr. Chairman, I alluded to that very briefly in my opening remarks. My position and the position of the Institute as well as the local courts and the ABA and the other organizations is simply this: Unfortunately, OMB fails to recognize that State courts in this country are responsible for adjudicating a very large number of cases each year that arise under our Federal Constitution, our Federal laws that range from civil rights actions under 42 U.S.C. 1983, right down to odometer rollbacks. So, the State courts are integrally involved with the mandates of Congress whether in terms of civil rights or odometers.

In addition, for example, State courts are called upon to enforce the laws enacted by the Congress such as the Child Support Enforcement Amendments of 1984 and legislation having to do with children in protective custody. They have a very important impact on the administration of justice in the States.

Additionally, State courts have historically acted as laboratories for the improvement of justice and there are many projects, such as court delay reduction programs, that we in the State courts would fund through SJI that could be applied in Federal courts.

I find it further very interesting in recent years, at least from our area, that State court judges and justices are involved in programs in which the Federal justices and State judges are involved. Chief Justice Rehnquist has recently expanded committees of the Judicial Conference of the United States to include State judges, so it is one big effort and responsibility both at the State and Federal level.

We respectfully would submit that OMB has missed the mark when they said it is only a State program as opposed to impacting the Federal system.

Senator HEFLIN. Would you have any estimate as to cases that would come before you, say, in one of your Supreme Courts which involve interpretations of—well, I would say before your appellate court systems which involve interpretations of the Federal Constitution, decisions of the U.S. Supreme Court?

Chief Justice TORBERT. I would say that——

Senator HEFLIN. Say divided into the criminal division? To make a guess, I would say as a result of Federal mandates on the court system emanating from the Federal Government that as much as 60 or 70 percent of the criminal cases that have come before appellate courts and trial courts have their origin in Federal law, which includes the Constitution.

Chief Justice TORBERT. I would respond to that, without the benefit of any statistics, to say that in virtually every criminal case on appeal to the appellate courts, there are Federal constitutional questions involved, fourth amendment cases, fifth amendment cases.

One impact that I thought was rather significant that the appellate courts of Alabama are grappling with is the recent decision by the U.S. Supreme Court on the make up of juries. Once that decision had been rendered by the Supreme Court of the United States, it just follows as night follows day, that State courts will have to interpret that and enforce it. So I would suggest even more than 60 or 70 percent in terms of Federal constitutional questions in criminal cases.

Chief Justice CARRICO. I would think so. There is a Federal question is practically every habeas corpus petition. It is amazing to me that the prisoners in the penitentiaries seem to find out what the Supreme Court has decided before we do, and when they come out with a major constitutional decision, there is a broad ripple caused in the penitentiary. We get a spate of petitions, and practically all of them raise Federal questions. And I would remind you, Mr. Chairman, that you appeared before a meeting of the State-Federal Judicial Council in Williamsburg several years ago and proposed that we ought to adopt a system which would permit the Federal courts to certify questions of State law to us. We had to go a long way to get it and had to have an amendment to the Constitution before we got it. We have got it now and we are helping the Federal courts much these days.

Senator HEFLIN. Well, it has been in Alabama for a good while, the certification of the issue which originates out of State law that the Federal courts have to grapple with——

Chief Justice TORBERT. That is correct.

Senator HEFLIN [continuing]. That is an undecided issue and is certified to it, that has been true in Alabama for a good while.

Chief Justice TORBERT. And it has worked very well and it adds to the efficiency of the resolution of disputes involving State law where the Federal courts, either the district courts or the court of appeals would certify the question and then we settled the question of State law; a cooperative effort.

Senator HEFLIN. You mentioned, Chief Justice Torbert, that the Attorney General had submitted a report to Congress on October 13, 1987, which was supportive of the work that the Institute had done. Have there been attempts on the part of the State Justice Institute to work with Federal agencies to improve the administration of justice on both the State and the Federal level?

Chief Justice TORBERT. There is no question about that. We have worked with the National Institute of Justice, for instance; we cosponsored a three-day conference with the National Institute of Justice. We have done that and we intend to do more than that.

Mr. TEVELIN. Just to elaborate a little bit, we are about to announce a joint program with the National Institute of Corrections that would train judges on better understanding the use of intermediate sanctions in their jurisdictions, and working with probation officers and other court personnel, and we are in constant touch with the Justice Department grant agencies about possible programs and projects that we can cosponsor. We have a very good working relationship with all of them.

Senator **Heflin**. Thank you. We appreciate it. We may submit some written questions to you for the record, and if you would, we would appreciate prompt answer to them.

Chief Justice **Torbert**. Thank you.

[Response to questions and additional material follows:]

QUESTIONS FROM SENATOR HEFLIN TO [illegible]

QUESTION 1. "There has been a suggestion by the National Association for Court Management that an addition should be made to the Board of Directors to include a trial court manager. Let me point out that this organization supports the Institute but believes that there is a need for a trial court manager on the Board.

"Do you believe that the representation of the Board is sufficiently broad to carry out the purposes of the Institute?"

ANSWER. Yes. By statute, the Board is required to be comprised of six judges, one State court administrator, and four members of the public (no more than two of whom can be of the same political party). 42 U.S.C. 10703(a)(2). The Board presently contains three appellate court judges (from Alabama, Arizona, and North Dakota); two general jurisdiction trial court judges (from Virginia and South Carolina); a limited jurisdiction trial court judge (from Nebraska); a State court administrator from the District of Columbia); a lawyer in private practice from Nevada; a prosecutor from Maryland; a law professor from the University of Virginia; and one vacant public member position.

The present Board is not only geographically and "judicially" diverse, but is also balanced on a rural/urban basis. Because the State court administrator currently on the Board is the Executive Officer of a large urban court system, including an integrated trial court, he is able to speak very effectively to the issues of trial court management that concern the National Association for Court Management. It should also be noted that Congress did not create the Board to be representative of the myriad of different courts and court-based occupations, but to assure that the Board as a whole would be familiar with, and experienced in the most important judicial administration issues facing courts across the nation.

QUESTION 2. "How does the Board ensure that there is no bias toward any particular project on the part of the individual Directors?"

ANSWER. Although not required to do so by statute, the Board of Directors voluntarily adopted rigorous Standards of Conduct to eliminate conflicts of interest affecting Board decisions. Under the Standards, a Board member is prohibited from voting or participating in any discussion about a proposal if the Director: (1) has a financial interest in the organization submitting the proposal; (2) is a member of the organization's governing body; or (3) participated in the development of the proposal.

The Executive Director implements the Standards by circulating a list of his suggested recusals to each Board member before a meeting. At the meeting, he asks the Board to review the list and add or eliminate any proposal. When the proposals are discussed, it is the Director's responsibility to note any recusals for the transcribed record of the meeting. In addition, all Board votes and discussions are public.

QUESTION 3. "Is there any organization or group of individuals that review the grant proposals outside the Institute?"

ANSWER. In most instances, the Institute draws upon the expertise of its Board of Directors, which, as noted in the answer to Question 1, is broadly representative of the State courts community. The Institute has established a procedure, however, through which the Board of Directors and Institute staff can obtain technical advice from outside experts to supplement their reviews of applications. This procedure has been used to date for ten applications that involved the use of sophisticated social science research methodologies. Reviewers have included university and independent researchers, and research staff at the National Institute of Justice and the Federal Judicial Center. The procedure has provided the Board with the information needed to determine the appropriateness of the proposed approach and to recommend necessary refinements, without adding substantially to the length, cost, or complexity of the review process.

QUESTION 4. "How often does the Board of Directors meet annually?"

ANSWER. As required by 42 U.S.C. 10703(i), the Board meets at least quarterly. From the time the original members of the Board were sworn in on September 29, 1986 to the date of this letter (November 21, 1988), the Board has met eleven times.

QUESTION 5. "What is the procedure for oversight of those organizations which receive grants from the Institute?"

ANSWER. The Institute employs four methods to monitor grantee performance and assure the appropriate and efficient use of public grant funds. First, each grantee is required to file quarterly progress and financial reports. The progress report must specify the activities that have been undertaken during the reporting period; the relationship of those activities to the task plan required as part of the original application; the significant problems, if any, that occurred during the reporting period and how they are being resolved; and the activities to be undertaken during the next quarter. The quarterly financial report requires grantees to specify, by budget line item, the amount of grant and match funds expended during the quarter.

Second, each project is assigned a specific program monitor. That person is responsible for maintaining contact with the project staff, reviewing progress and financial reports to ensure that the project is meeting its objectives on schedule and within budget, making certain that any special conditions imposed on the grant award are being met, and approving any changes in project tasks, schedule or key personnel. A formula has been developed to assist monitors in determining the intensity of oversight required.

Third, each grantee may draw down, in advance, only the amount needed for its immediate cash needs. Fourth, in accordance with 42 U.S.C. 10711, each grantee must provide for an annual, independent, fiscal audit to assure that it expended Institute funds in accordance with the terms of applicable agreements and relevant provisions of Federal law and Institute regulations. The audit may be of the entire grantee organization or of the specific project funded by the Institute.

In addition, as required by 42 U.S.C. 10705 (b)(4), grants to a State or local court are awarded to the State supreme court or its designated agency or council which is responsible for assuring proper administration of Institute funds.

QUESTION 6. "Are there any limitations on the number of grants a particular organization may receive?"

ANSWER. No, although the Board is sensitive to assuring that no organization, State, or geographical area receives a disproportionate share of Institute funds. Each request for funding is evaluated on its merits in accordance with the criteria published in the Institute's Grant Guideline.

QUESTION 7. "In looking over the FY 1987 projects, they seem to address a variety of issues affecting State court administration.

"How does the Institute determine those programs which will be of 'special interest' to the Institute?"

ANSWER. There are several important sources of information and recommendations about SJI's special interest areas. The first is the substantial experience of the Board members themselves. Unlike the heads of Federal agencies, the members of the governing body of the Institute are "in the field" year round. In addition, many of them are in high level positions in their States as well as in judicial and legal organizations. As a group, they are in an excellent position to know the most important needs and interests of judges and other court personnel both in their home States and across the nation.

Another important source is the public that reads our proposed Grant Guideline in the Federal Register. SJI publishes its "special interest" areas for public comment prior to the start of each fiscal year's program. Individual copies of the

Guideline are also sent to judges, court personnel, judicial organizations, legal associations, researchers, and non-profit organizations across the country. The Board tries to be especially responsive to the suggestions received from possible applicants and others with a special interest in the courts.

The third major source of input occurs on a continuing basis as staff and Board members appear at conferences and meetings of judges and court personnel throughout the year. Special attention is paid to the topics that those groups identify as important in their own meetings.

Finally, SJI staff constantly monitor court-based research and literature in order to stay abreast of current trends and problems.

QUESTION 8. "Programs funded by SJI are intended to benefit the nation as a whole. How does the Institute intend to publicize the results of individual projects?"

ANSWER. The Board of Directors has been very concerned that the results of Institute support projects be made available to the courts community nationally. To that end, the Board has specified that each application include a discussion of how products will be disseminated to the relevant court audiences and, whenever appropriate, has required that the results of the project be summarized in a journal or law review article.

In addition, the Institute is planning to begin publishing a quarterly newsletter in 1989. The newsletter will include articles about current and recently completed projects supported by the Institute.

QUESTIONS FROM SENATOR GRASSLEY

QUESTION 1. "Can you review in detail the status of projects in the areas of:

"A) State court civil cases where a party is also subject to a Federal bankruptcy proceeding;

"B) The adjudication of Federal law questions by State courts; or

"C) Any other projects designated to better allocate judicial burdens between State an Federal courts?"

ANSWER. As you know, each of these topics were sub-categories of the Institute's "State/Federal courts" special interest category in both Fiscal Year 1987 and 1988. Special interest category topics are highlighted for the attention of potential applicants in order to encourage the development of projects in areas that the Board believes are very important to both the State and Federal judiciaries. Although we received a limited response to the first two topics in 1987 and 1988, a number of promising projects were funded in these areas.

With respect to the first area, the Institute awarded a $139,869 grant to the Rural Justice Center to develop a "State Trial Court Education Program on Farm Credit Issues". Through the efforts of an advisory committee comprised of experienced litigators, judges, and judicial educators, the Center will develop a detailed training curriculum for both State and Federal judges in this important subject. Among the issues that will be addressed by this one-year project are: the differing interpretations of the legality of attaching government program payments (e.g., PIK); and how to avoid or deal with conflicting orders issued by a Federal bankruptcy court and a State court hearing a foreclosure proceeding affecting the same property. The grant will be administered through the Center for Community Change in Washington, D.C.

Several grants were awarded in the second area in 1987 and 1988. In FY 1987, a $93,076 grant was awarded to the Center for Policy Research to evaluate the impact on litigants and the courts of the three major types of child support guidelines that have been adopted by the States in response to the Child Support Enforcement Act. In addition, improved State court compliance with the Adoption Assistance and Child Welfare Act is expected as a result of a $159,010 grant to the National Council of Juvenile and Family Court Judges for a training and technical assistance project entitled "Making Reasonable Efforts to Preserve Families."

An FY 1987 grant to the National Center for State Courts supported Phase I of a study to evaluate the "Effects of the Transfer of Diversity Jurisdiction." Under this grant, the

Center projected the impact of eliminating diversity, and raising the jurisdictional limit in diversity cases to $50,000, on the caseload of the courts in each State. A $57,502 Phase II grant was approved in FY 1988 to study the impact of those changes on specific courts in jurisdictions across the country.

Three grants focus on studying and improving the State and Federal courts' handling of habeas corpus petitions: an $136,275 award to the Criminal Justice Section of the American Bar Association for a project entitled "Rationalizing Federal Habeas Corpus Review of State Court Criminal Convictions -- Death Penalty and 'Ordinary' Cases"; a $105,256 grant to the Institute of Judicial Administration for a study examining "The Role of Procedural Default in Federal Habeas Corpus Review of State Criminal Convictions"; and $100,000 to the Texas Appellate Practice and Educational Resource Center for "A Project to Facilitate the Disposition of Habeas Corpus Cases Involving Sentences in State and Federal Courts in Texas."

The Institute's major grant in the third area is a $150,00 award to the American Law Institute for "A Study of Complex Litigation." The habeas and diversity grants noted above address this issue as well.

QUESTION 2. "Would you describe those programs in your second fiscal year 1987 funding round that have conducted research or demonstration projects in State courts that will be of benefit to the Federal courts and Federal interests?"

ANSWER. The grants listed above in response to Question 1 are among the most significant SJI grants that will benefit Federal courts and Federal interests. In addition, many of the Institute's projects test or demonstrate ideas and procedures that will benefit Federal courts as well as State courts. These projects include demonstrations and evaluations of court-annexed arbitration; procedures for reducing case processing time in both trial and appellate courts; electronic bulletin boards; juror notetaking; different methods of paying jurors; effective fine and restitution collection procedures; the use of videotaped trial records; court-based information systems; and the impact on the courts of a prohibition on plea bargaining.

Judicial education programs that will be available or easily adaptable to Federal judges include the University of Virginia's Graduate Program for Judges, as well as specialized training on better treatment of crime victims in court, judicial ethics, judicial writing, bioethical issues, AIDS, and the use of technology. The participation of Federal judges is also expected in connection with a major "Future of the Courts" conference to be held in early 1990.

QUESTION 3. "Would you describe some of the projects that have been denied assistance but that could have suggested projects of national significance?"

One project that could have national impact in a revised structure is the Institute of Judicial Administration's "Model Assigned Counsel Program". That project was denied funding in FY 1988 principally for want of a host court to demonstrate its promising procedures for improving the quality of counsel assigned to represent juveniles. The Board invited the applicant to resubmit its proposal in FY 1989 with a commitment from a court willing to adopt and test the procedures proposed.

Another proposal with potential national significance was submitted by the Smith Law Center of Drake University. The University sought $200,000 to implement, test, and evaluate demonstration clinics at the Law School's Dispute Resolution Center. If the applicant can better describe the impact of one or more of the clinics on the Iowa courts, the project may present dispute resolution models of national significance.

The Institute has approved a number of projects that were turned down in their original form. The projects described above and others may yet produce significant benefits for the State courts with SJI support.

QUESTION 4. "Can you explain why other State judicial organizations or associations, organized on either a regional or national basis, cannot implement a similar grant program, without Federal funds, and exchange that information with the Federal judiciary?"

ANSWER. The simple answer to that question is that the organizations you mention do not have the funds needed to carry out those programs. Substantial funding is required to pay for project costs, including the hiring of new personnel; travel and lodging of project staff and other grant participants; and the production and dissemination of grant reports and other materials, among other expenses. Some States have statutes or policies that prohibit or limit the use of their funds to benefit another State, or even to pay judges' out-of-State travel expenses.

The judicial organizations you note are funded primarily by members' dues and Federal grants; a reduction in grants from SJI or Department of Justice grant agencies would have a serious impact on their ability to provide training or other services to their own membership, much less non-members from other organizations.

QUESTION 5. "Would you explain how you envision the almost $149,000 recently awarded to the University of Iowa College of Law will benefit the State and Federal courts?"

ANSWER. There is a growing concern that jury awards for noneconomic injuries and punitive damages may be excessive in many cases and that the unpredictably of jury awards has led some insurance carriers to decline to cover certain types of activities or to increase significantly the premiums charged to cover those activities. A current method that appellate courts use to assure the appropriateness of the non-economic and punitive damage awards is to conduct an additur or remittitur review. There is, however, no objective measure or accepted method of analysis that appellate courts are able to use to determine whether an award is clearly disproportional.

Accordingly, the University of Iowa College of Law is seeking to develop, on a pilot basis, a classification system and analytic procedure that will permit an appellate court to classify physical injuries and develop measures of noneconomic injuries and punitive damages that will permit valid comparisons among cases. It will also develop and evaluate "alternative guidelines for making disproportionality determinations and to consider their practical and constitutional implications." The classification system, measures, and guidelines will be based on data gathered from a national sample of cases. They will be reviewed by a project advisory board consisting of representatives of the major perspectives involved in personnel injury litigation and tested by a specially convened panel of trial and appellate judges.

It is anticipated that the project will yield tools that will greatly assist State courts across the country in improving the consistency and equity of damages awarded in personal injury cases. In so doing, it would assist both individual and corporate litigants, as well as the courts themselves.

QUESTION 6. "Can you explain if the lack of a 'match' requirement by other entities of government for Institute grants has been a problem or are you exercising some preventative medicine?"

ANSWER. Until the 100th Congress remedied the problem by a technical amendment to the Institute's enabling legislation, the lack of a match requirement did produce an anomalous result in SJI grants. The State courts who were the primary intended beneficiaries of those grants were required to contribute matching support equal to 50% of the amount requested from SJI, but other eligible units of State or local government, such as prosecutors or law enforcement agencies, were not required to provide any match. The curative amendment requested by SJI and approved by the Congress requires all governmental agencies to provide the 50% match. The commitment of its own funding is expected to assure that the grantee will be fully committed to the success of the project.

QUESTION 7. "Would you describe what you expect will be discussed -- and possibly accomplished -- during the conference planned on 'Alternative Dispute Resolution and the State Courts'?"

ANSWER. The purpose of the National Conference on Dispute Resolution and the State Courts was to foster sound policies and encourage effective use and careful evaluation of innovative dispute resolution procedures in the State courts. Conference participants included approximately 300 judicial and administrative leaders of State court systems and of appellate and trial courts; leaders of the bar; insurance and manufacturing industry executives; consumer advocates; representatives of professions ranging from architecture to medicine; dispute resolution practitioners; and scholars. Conference sessions and workshops covered policy issues regarding the impact, organization and implementation of dispute resolution programs; the results of the research that has been conducted regarding such programs; and the operation of various dispute resolution techniques. A copy of the resource book given to all Conference participants is being sent to you under separate cover.

A special feature of the conference were the specially developed videotapes illustrating court-annexed arbitration, small case mediation, and summary jury trials. These videotapes together with a special report summarizing the issues and discussions at the conference will be nationally available for training and informational purposes. In addition, the Institute has awarded a grant to the National Judicial College to revise and expand its judicial education program regarding the use of alternative dispute resolution on the basis of the information developed for and at the Conference.

QUESTION 8. "If the Administration's position regarding funding for the Institute were adopted, would the Institute have access to other funding sources, such as judicial organizations or associations, other levels of government, or private foundations interested in improving the administration of justice at all levels?"

ANSWER. No. As noted above in the response to Question 4, there is not a great deal of private or State funding available to support improvements in the administration of the nation's courts. In addition, the Board would have to determine if it wanted the Institute to compete for the limited funds available with the other existing judicial organizations seeking support for their operations and projects. Because SJI has been established by Congress as a provider of funds to those organizations, and not as an organization providing services or training itself, the Board might very well conclude that it could best serve the judicial community by permitting the direct providers to benefit from the limited support available rather than by seeking support itself.

QUESTION 9. "Would you explain whether or not you believe tha Institute's Board is representing trial, special, and appeals courts, as well as the needs of rural and metropolitan jurisdictions?"

ANSWER. The Board presently contains appellate court judges from Alabama, Arizona, and North Dakota; general jurisdiction trial court judges from Virginia and South Carolina; a limited jurisdiction trial court judge from Nebraska; a State court administrator from the District of Columbia; a lawyer in private practice from Las Vegas; a prosecutor from Baltimore County, Maryland; a law professor from the University of Virginia; and one vacant public member position. In our opinion, the present Board is not only geographically and "judicially" diverse, but is also balanced on a rural/urban basis.

American Academy of Judicial Education
Court Improvement Through Education

Suite 824 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

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American Academy of Judicial Education
Court Improvement Through Education

Suite 824 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

December 2, 1987

MEMORANDUM

To : Supporters of Judicial Education
From : Douglas Lanford, Executive Director Douglas Lanford
Re : Improved Policies and Procedures For the Awarding of
Public Funds For Judicial Education

Enclosed is a copy of my letter to the Chairman of the Board of the State Justice Institute (SJI).

It concerns the inequitable allocation of public funds.

We wish to support the continued existence of SJI.

The changes we recommend should be made because of their inherent worth.

The changes also should be made because to do so will assist the SJI Board members in discharging their responsibilities to the public and, therefore, ensure SJI's longevity.

American Academy of Judicial Education
Court Improvement Through Education

Suite 824 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

December 2, 1987

Douglas Lanford
Executive Director

Chief Justice
A.W. Barnes (ret.)
Associate Director

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Chief Justice C.C. Torbert, Jr.
Supreme Court of Alabama
P.O. Box 218
Montgomery, Alabama 36101

Dear Chief Justice Torbert:

I send this letter to you in your capacity as Chairman of the Board of the State Justice Institute (SJI). It relates to the inequitable way in which the SJI Board members have acted upon requests for public funds for judicial education.

I note the outstanding record that you have achieved, since you are also the Chairman of the Board of the National Center For State Courts. This organization has a relationship to the problems we have previously brought to your attention.

Judicial leaders, the Senate and House Judiciary Committees and Congress have played a role in establishing SJI. It has been created and provided funds in the face of massive budget deficits. This, correspondingly, imposes a substantial responsibility on SJI Board members to grant these funds in the wisest and most impartial way possible, based on broad knowledge and understanding of the matters to which the grant applications relate.

We also hope to improve the process of best determining what will most assure the success of state judicial education and how to provide the programs and services that will help to achieve that success.

These comments are also designed to enhance the appropriate role of the federal government in state judicial education, through the improved operations of SJI.

We would be pleased to join with you to go before the Judiciary Committees to present this matter to their members, the ultimate decision makers concerning these problems.

For a number of reasons, as described in paragraph 1 of this letter, infra, we think it is timely to undertake a fundamental, searching review of judicial education. This would point towards a significant improvement in this activity, particularly with respect to in-state education and training, as supplemented and complemented by improved national judicial training organization activity.

Another reason this review is essential is the recent creation of SJI. It was created by Congress as an independent nonprofit corporation to foster improvement in state judiciaries. SJI had, and has, an opportunity to learn from the achievements and mistakes of the past. One purpose of this letter is to contribute to the achievement of the objectives of Congress and SJI by highlighting sources of the recent actions of the SJI Board.

The following matters are for your consideration, as well as for that of your Board, the other recipients of this message, and the Judiciary Committees of Congress.

This letter will:

One: Identify the three most necessary changes to be made in the statute reauthorizing the establishment of SJI, to require that:

- Requests for funds for judicial education be approved by a panel of impartial experts (see paragraph 3, infra);
- A master plan of judicial education be established, specifying the long-term goals against which the periodic award of public funds can be matched (paragraph 3, infra); and,
- The priority of judicial education funding be for the development of in-state training in state law and procedure, before judges begin to deal with life, liberty and property (paragraph 3, infra).

Two: Present facts relevant to decision making concerning the awarding of public funds:

- The record of cooperation (and lack thereof) among the several national judicial training organizations is one such relevant factor. At some level of a lack of cooperation an entity should be denied the receipt of public funds. Please note the following facts.

National Center for State Courts

May, 1987

Excluded the Academy from an SJI funded group of judicial education organizations.

January, 1987

Excluded the Academy from the list of invitees to a National Conference on Judicial Education.

May, 1982

Caused a law school to terminate explorations with the Academy about our offices being located there.

"These expressions by the National Center preclude our pursuing any arrangement with the Academy..." Law school dean letter, May 22, 1985.

1974

Caused loss to Academy of LEAA grant.

Letter to NCSC from LEAA: "Pursuant to your letter . . . The Court Clerks Improvement Program . . . has been terminated . . ."

See Enclosure 1A and Enclosure 1, paragraph 7.

Dispel the myth of competition and indicate how the receipt of subsidies should influence the granting of public funds (Enclosure 2).

For example, a fundamental policy question for Congress and the SJI is how to award public monies to organizations that have no subsidies. Subsidized organizations can undercut the price of "competitors" that have no subsidy. A few months ago the National Judicial College advised state courts that their tuition fees were less than those of the Academy. Quite true. However, only twenty one percent of the College's income comes from fees from services (see 1986 College Annual Report). Ninety four percent of the Academy's 1986 revenue came from services. Perhaps also of note are the following facts.

Competition 1986

	NJC	AAJE
Revenue	$3,741,666	8% of NJC
Staff	47	6% of NJC
Number of conference days	285	85 (with 6% of
NJC	staff AAJE presented 30% of the number of NJC conference days	
Conference days per capita-staff	6	28

A Summary -- AAJE -- 1970-86

	Number	Attendance	Served
National Conferences	250	4,500	
State Assisted Conferences	220	14,000	

Instructed via AAJE videotapes at state programs - judges and others			10,000
Informed through annual publication Recent Decisions U.S. Supreme Court	___	______	15,000
	470	18,500	25,000
TOTAL SERVED			43,500

It may be worth pondering the result if the competition between the NJC and the Academy took place on the proverbial "level playing field."

The question is how to maintain the vitality of a non-establishment organization that provides high-quality services and innovative products and concepts that have been emulated by national judicial training organizations and state judicial education officers?

Because of the need for guidance for the Judiciary Committees of Congress on this matter, there is the need to present the facts concerning your Board members' actions on concept papers and several grant applications. These facts support the recommendations we have made to you and Judiciary Committee members and cause us to resubmit our rejected grant applications for your consideration at your December Board meeting, with the written record of your Board members' discussions with us and the reasons for their decisions being available to all appropriate parties (see paragraphs four through six, infra).

1. The Need For A Fundamental, Searching Review.

There comes a time for review of any activity. Prior to 1968 continuing judicial education was practically nonexistent. Two national training organizations had been created and were providing valuable services. But the activities at the state level were in need of substantial improvement.

The creation of the Law Enforcement Assistance Administration (LEAA), under the Omnibus Crime Control and Safe Streets Act of 1968, represented a significant time in the history of judicial education. Funds from LEAA were available to states to employ individuals (judicial education officers-JEOs) who would be responsible for the development and presentation of in-state education and training programs for judges. When LEAA went out of existence the state judiciaries, to their great credit, retained these people. This development, pioneered by federal funds, was one of the most significant developments in continuing judicial education, and is a good example of a federal role in what is, essentially, a state activity and responsibility.

To date, the states have spent countless millions of dollars to improve the performance of their judiciaries through education and training. In 1988, these programs will be twenty years old . Now is the time for a fundamental and searching review to determine whether or not judicial education programs started in the correct direction, have established appropriate goals and objectives, and have met them. Now is also the time to plan for the future.

2. Congressionally Established State Justice Institute.

Congress created this independent, nonprofit corporation to provide a variety of services for the benefit of state court systems. The Judiciary Committees of Congress and Congress itself should be commended for noting that there is an appropriate role for federal funding of state judicial education.

During its existence LEAA did not develop a long-term plan for improving judicial competence through education and training, against which its funds could be dispensed to states, nonprofit corporations and others. Nor did it have a comprehensive statement of funding priorities.

Therefore, SJI has an opportunity not only to contribute to the improvement of the state judiciaries, but to build from the experience of LEAA to significantly improve the federal contribution to state judicial education.

Since its inception in 1970 the Academy has had as one of its two major purposes the provision of assistance to states. We therefore believe that it is appropriate for us to use our experience to offer suggestions about how to improve this service. Our experience has included the preparation for states of grant applications to LEAA, the design of comprehensive state programs, the provision to states of videotaped courses of instruction, and plans for pre-service training for state judges in state law, to have them be competent before they confront decisions in which life, liberty and property are at stake.

In this regard, the Academy has offered suggestions to both SJI and to members of the Judiciary Committees in an effort to enhance SJI's role as a trustee of public funds.

3. Recommendations and Results.

The SJI Board and key staff were appointed and selected on the basis of the qualifications of the individuals chosen. The members of the Board and the key staff were very well qualified in the areas of the activities in which they were engaged before their appointment and selection. The records that these individuals had achieved were impressive.

"Continuing judicial education" is a misleading term. The kinds of educational activities which state judges receive is more accurately described as "adult education." SJI has identified a number of areas of priority of interest-- e.g., delay, dispute resolution, etc. One of these key areas is "continuing education." In order for SJI to more adequately meet its Congressional mandate it should require that decisions about services and funds provided for this activity be made by people whose education, training and work experience have been in adult education. The Board members and the key staff, with fine records in their own areas, have not been educated and trained in adult education theories and practices. Neither have they been employed in adult education work. Therefore, the Academy has recommended to SJI and to members of the House and Senate Judiciary Committees that an expert, impartial, peer review panel, knowledgeable in the field of adult education be established to make decisions about awards of public funds for continuing judicial education activities. This is consistent with Congressional practices in requiring other nonprofit, independent corporations and agencies to have such panels - for example, the National Institute for Mental Health.

We have also suggested the development of a long-term, comprehensive plan against which specific funding can be awarded. If LEAA had had such a plan the countless millions of dollars of public funds that it provided for judicial education would have been much better spent. We have drawn on our experience to offer such a long-range plan. The enclosed "Master Plan" indicates what the end results of such a plan could be (Enclosure 3).

We have also recommended that a policy be established that funding priority be given to the development of in-state, pre-service education and training programs. These programs should emphasize state law and practice and aim for making state judges competent before they must make decisions about life, liberty and property. The enclosed brochure describes a conference that we have had on this subject, along with the resolution unanimously adopted by the attendees(Enclosure 4), urging each Chief Justice to implement pre-bench training.

Your Board received our written recommendations to establish an expert, impartial peer review panel and to support the development of a Master Plan (see Enclosure 1) prior to your Board meeting May 21, 22, 1987. The Master Plan we sent to you included pre-bench training. We have received no response to these recommendations. SJI has not made these changes. I attended the May 21, 22 Board meeting. I was not invited to discuss these recommendations. They were not discussed in an open meeting.

4. State Justice Institute Board Meeting May 21-22, 1987 and Action on Funding Requests.

The first funding that your organization received was made available to it until it is expended. SJI divided its funding activity into two phases, called "rounds." In each of two rounds SJI requires that applicants first submit a concept paper for consideration. If the concept is approved, the applicant is then invited to submit a grant application, but without any guarantee that the application will be approved. Both steps of Round 1 have been completed.

The Board members met for three hours in closed session before the first open meeting at which they discussed concept papers. After that meeting, and during a break before beginning the open meeting, a Board member who could not see me, asked a staff member "how open should this meeting be?" The staff member, who could see me, replied, "as open as can be."

An SJI staff member recently addressed judicial education officers. He emphasized the SJI standards of conduct. He mentioned that a Board member (the one who asked about how open an open meeting should be) excused himself from the August, 1987 Board meeting by leaving the room when discussions took place concerning an application from his university. The SJI staff member did not mention the following. At both the May and August Board meetings the Board member who spoke on behalf of the university's application is a member of the governing body of the American Bar Association (ABA) and a member of the ABA Appellate Judges' Conference.

> The Appellate Judges Conference ... maintains an Advisory Committee which meets annually with the (university's program committee) ... (This program's) funds will be used to reimburse members of the Advisory Committee ... of the Appellate Judges' Conference for their expenses in attending the annual meeting with the (program committee) ... The Advisory Committee is currently constituted as follows: ... (the SJI Board member who spoke on behalf of the university's application).
>
> University Grant Application, pages 11, 16.

The National Judicial College (NJC) and the Academy submitted concept papers for identical activities.

A Story of Competing
Concept Papers

The Academy concept paper included a copy of our Master Plan (see Enclosure 3), and stated that the proposed

Office would develop and carry out the Master Plan. In the "Academy Column" "CP" means our concept paper and "MP" means Master Plan (the number means the item number of the MP -- e.g. MP 1.0).

National Judicial College	American Academy of Judicial Education
To establish a "State Judicial Education Services Program" to:	To establish an "Office for Judicial Education Research and State Support" to:
1. Institute a Long Range Planning Group	. . . develop and carry out the Master Plan (which was a part of the Concept Paper)" CP page 1
2. Prepare Course Modules	Prepare Model Programs (MP 5.1, .2, .7, .8), CP page 2, 4
3. Present Faculty Development Institutes	MPI.0 (which included faculty development, as described in another concept paper), MP5.6
4. Develop Faculty Data Base	MP 4.3, 5.6; CP, page 2
National Judicial College	American Academy of Judicial Education

5. Provide Technical Assistance	MP 10.0, CP page 2
- education assessment	MP 2.1-.4, CP pages 2, 3
- re resource materials	MP1.0 and 34 items of the Master Plan

SJI received 200 concept papers. The staff recommended 50 to be voted on by the Board, having placed them into categories, e.g., Technical Assistance and Judicial Education. The procedure for voting at the Board meeting was as follows: When the Board had discussed all of the staff-recommended papers in a particular category, unless a Board member requested that one of the papers not recommended by the staff be brought up for discussion, the remaining papers assigned by the staff to that category were considered to have been rejected.

The SJI executive director announced the papers to be discussed in the judicial education category. He mentioned the NJC paper as one to be discussed in the judicial education category but not the Academy paper. The Academy director asked the SJI director why this was so. He stated: The staff had placed the Academy's paper in the technical assistance category and had decided not to recommend that paper for consideration by the Board; when the discussion on the staff-recommended papers for technical assistance had ended, no one had asked for our paper to be brought up for discussion; therefore, the Board had rejected it.

A few minutes later, before the director could speak with his deputy, the Academy director asked the SJI deputy director the same question, and received the same answer. Later the deputy director stated that the above explanation was incorrect, that the Academy's paper had been misplaced. It was then added to the judicial education category for discussion by the Board. All concept papers relating to judicial education were approved by the Board.

The results of SJI Board member votes concerning concept papers submitted in Round One are illustrated by the following chart.

SJI ACTION EN AT BOARD MEETING

MAY 20, 21, 1987

APPLICANT	APPROVED CONCEPT PAPER AMOUNT	BOARD MEMBER RELATION TO APPLICANT	OTHER RELATED APPLICANTS	APPROVED CONCEPT PAPER AMOUNT
National Center For State Courts	$922,618	Chair, NCSC BD. (1)		
		Former Chair, NCSC BD	Home: State Ct.	$150,000
ABA NAT'L JUDICIAL COLLEGE	$ 60,000	American Bar Association BD Member, NJC ABA Governing Body	His Court	$150,000
ABA (Other Papers)	$322,893	Past Officer, Judges' Assoc.*	Home-State	$ 40,823
		Officer, Judges' Assoc.		
		Officer, Judges' Assoc.	Home State Court System	$162,500 $ 14,600
A University	$95,000	University Faculty Member		
A County Circuit Court	$ 15,000	Court Official		

OF THE TOTAL DOLLAR AMOUNT OF FUNDING REQUESTS FAVORABLY ACTED UPON BY THE SJI BOARD, 69% CAME FROM ORGANIZATIONS WITH WHICH SJI BOARD MEMBERS HAVE A RELATIONSHIP

* Not in attendance at May meeting

5. Academy Recommendations Subsequent to May Meeting.

Subsequent to this Board meeting the Academy again made known to SJI its recommendations to establish an expert, impartial, peer review panel, to develop a long-range plan (Enclosures 5, 6), and to make a priority of funding in-state, pre-service "Competence Before Judgment" training (statement made to SJI Executive Director, June meeting).

I attended your Board meeting of August 17, 18, 1987. I was not invited to discuss these recommendations. They were not discussed in an open meeting.

In our effort to assist the Judiciary Committees in more perfectly achieving their goals, we also wrote to Senator Howell T. Heflin from Alabama and Representative Robert W. Kastenmeier from Wisconsin (Enclosure 7), prior to the August SJI Board Meeting.

6. SJI Board Meeting August 17-18, 1987 and Action On Judicial Education Grant Applications.

The SJI Board met for three hours and forty minutes on August 17, in closed session, before the meeting opened to the public. The meeting adjourned at approximately 5:00 p.m. The Board met for dinner that evening in closed session and discussed judicial education grant applications, again in closed session.

They met in closed session for forty minutes prior to the open meeting on August 18, which concluded at 3:00 p.m. Decisions were made relating to applications for funding for a variety of projects - court delay, dispute resolution, etc. The process was as follows. The staff would recommend to the Board which grant applications should be discussed by the Board. If a grant application were not recommended for discussion, then the only way it could be discussed was for a Board member to request that the application be discussed. Otherwise, it was considered to have been rejected.

The grant applications submitted by the Academy were made in light of its recommendations about what should come from a fundamental, searching review of the past, present and future of this activity. This was with particular emphasis on the appropriate role of federal money for service to the states.

These grant applications and SJI Board member actions are described below.

6.1 Adult Education.

So called "judicial education" is but a specialized kind of training given in the area of "adult education." This is a well developed body of knowledge and skills which must be held in an appropriate measure by each of the major players in state judicial education and training: policy makers, planning committee members, judicial education officers, key staff and faculty. This is the needed bedrock for making a new start and improving state judicial education and training. Without these individuals having the appropriate knowledge and skills whatever follows next is compromised in its quality and contribution towards student judges' learning. This application, if funded, would have developed from research training curricula and materials of the sort appropriate for each of the above five types of people, to be presented by state judicial educators.

The JEO is a key person in the state judicial education system. The Academy's project would have presented a two-week curriculum in adult education for JEOs. A Certificate of Completion would be awarded upon course completion. The Academy is exploring with a university the joint award of the certificate.

This instruction would also be available to a JEO beginning service, through individual study materials.

A substantial number of JEOs are not lawyers, and most JEO staffs have no lawyers. The project would have developed a training program for these people on the legal-judicial system.

No other application of this sort was submitted. No program of this sort exists. A letter endorsing this application was received from the National Association of State Judicial Educators and was enclosed with the application.

The staff did not recommend that this application be discussed. The Board members refused to discuss it. Therefore, they rejected it.

The amount requested by the Academy for the research and curricula and program material development for separate programs for, respectively, policy makers, planning committee members, judicial education officers (including new JEOs), key staff and faculty, including self-instructional materials, scripts and audio-visual aids, was $154,784.

The National Center for State Courts requested $97,617 for research about judicial education faculty development programs. This request was not rejected. It was "deferred until Round 2."

The National Judicial College was given $154,306 for faculty development workshops.

A state was awarded $18,159 for a judicial faculty program.

Comparisons

For replication by:	NCSC Research App.	NJC App.	AAJE App.
-Other national organizations	Yes	Yes	Yes
-State	Yes	No	Yes
-In JEO office	?	No	Yes
-Self-study	?	No	Yes
For:			
-Policy makers	No	No	Yes
-Planning Committees	No	No	Yes
-JEOs	No	No	Yes
-New JEOs	No	No	Yes
-Key staff	No	No	Yes
-Faculty	Yes	Yes	Yes
-Instruction on legal-judicial system for non-lawyer JEOs and by staff	No	No	Yes

Products:			
Faculty Guide	No	No	Yes
Administrator's Guide	No	No	Yes
Participant's Materials	No	No	Yes
FUNDING REQUESTS	$ 97, 617 (deferred)	$154,307 (awarded)	$154,784 (rejected)

The national significance of this project will be that it will substantially and significantly improve the quality of judicial education and training in most states. It will afford Congress an example of how federal support can do what no one state can do because of a of resources, or is likely to do: through appropriate funding develop a high quality model program that will be transferred to most of the states.

Beyond this, the national significance of the project is that, because of its non-state specific nature, it will be useful to the Federal Judicial Center (which as no such program), national judicial training organizations (they have no such programs), national law enforcement and attorney training organizations, law schools, state and municipal law enforcement training organizations, and continuing legal education operations--they train people who are in or influence the statte justice system.

Academy Grant Application

IF WE DON'T BASE CONTINUING EDUCATION AND TRAINING POLICY, PLANNING, AND IMPLEMENTATION ON APPROPRIATE ADULT EDUCATION KNOWLEDGE AND SKILLS, HOW CAN THE PROGRAMS THAT ARE BEING DEVELOPED BE SUCCESSFUL? HOW CAN IT HELP ASSURE JUDICIAL COMPETENCE?

6.2 Comprehensive and Program Planning, Master Plan and Learning Center.

What would first flow from key people in state judicial education being significantly better prepared in adult education knowledge and practices would be to prepare a comprehensive, long-term judicial education plan for state implementation. The Academy's application requested funds to prepare and make available to the states instructional materials on how to prepare comprehensive, long-term plans, as well as how to plan for specific programs. It also would have developed a Master Plan to support states (see Enclosure 3). It would have also developed a blueprint for developing Learning Centers. These would be places where all appropriate technology and materials would be available for use, from providing materials for in-residence, in-state conferences to individual use at home.

No other application of this sort was submitted. No program of this sort exists. A letter of endorsement was provided from a state supreme court which was willing to implement the Learning Center blueprint, as well as to contribute funds to its development. One other state Supreme Court expressed its desire to be a demonstration state. The application was endorsed by the National Association of State Judicial Educators.

The staff did not recommend it for discussion. The Board members refused to discuss it. Therefore, they rejected it.

The initiation of the development of our Master Plan was announced in May, 1987, to Chief Justices and JEOs. In August your Board members awarded funds to the National Center For State Courts to establish a "Judicial Education Network"

(Network). Among its purposes would be to "increase cooperative planning", achieve "more effective utilization of still quite limited resources", and "focus explicitly on broad needs." (National Center Grant Application.) The application also stated the six broad concerns must be addressed (page 4, application). Substantially all of these matters are encompassed in the proposed Master Plan that was a part of this Academy application, enclosed with every other Academy application, accompanied in each instance with a narrative relating each Academy application to the Master Plan (see enclosure 3).

Note on Academy Master Plan, paragraph 6.1, Council on Cooperation, paragraph 6.2, Association of American Law Schools Judicial Education and Training Committee Liaison Committee.

> Perhaps of note is the following:
>
> March 3, 1977 Academy letter to LEAA
>
> LEAA is providing substantial funds to the National Center for State Courts for a Court Planning Capabilities Project... [I]t does not in any way envision planning for continuing judicial education. Should this not be an integral part of the planning process in state courts?
>
> April 11, 1977 letter from LEAA to Academy
>
> ... Continuing Legal Education is in no manner precluded as a matter for treatment.
>
> It was not treated.

I also note the following facts. At the first meeting of the Network there was much discussion about what its first project would be. The Academy made a suggestion that the first project be the development of a Master Plan, and I displayed a copy of our plan while making this suggestion. The preponderance of votes of those present was to work on a master plan. Does this not argue for our application being funded?

6.3 Pre-Bench and Comprehensive Curriculum, Continuing Judicial Education Curriculum, and National/State Curricula Interrelationships.

If training is important, to whom is it most important, particularly considering the public's need for competent judges? The Academy's contribution to improving the state of training was to propose the development of model programs and materials that would be easily adapted by the states to their special needs. These materials would provide to a new judge appropriate pre-service training and a continuing curriculum for first year of service; a multi-year continuing curriculum for in-state presentation of subjects that could not be presented in the new judge curriculum; and develop guidelines by which the curricula of state and national training organizations could be better blended.

No other application of this sort was submitted. No program of this sort exists. The Academy's application was endorsed by the National Association of State Judicial Educators, had letters from two supreme courts endorsing it, in which they stated that they would be interested in being demonstration states, and included the resolution adopted at the Academy's first Competence For Judgement Conference, calling for state chief justices to implement pre-bench training (Enclosure 4).

> The purpose of this conference is to encourage essential change in policy so all new judges will be properly prepared for the exercise of their responsibilities. Consequences of inaction could include injustice and expense to litigants, exposure of judges to liability and career jeopardy, and loss of public confidence in our entire system of justice.
>
> "Recommended Policy--Required orientation programs for new judges before they take the bench."
>
> American Academy of Judicial Education, brochure on Court Improvement (1971)
>
> "All new trial judges. . .should attend (a) local orientation program. . .(which) should come immediately before or after the judge first takes office."
>
> Report on Courts, National Advisory Commission On Criminal Justice Standards and Goals (1973)
>
> "Court systems should operate or support. . .programs of orientation for new judges."
>
> American Bar Association Commission on Standards of Judicial Administration, Standards Relating to Court Organization (1974)
>
> "Every judge, prior to assuming judicial responsibilities, should receive adequate orientation assistance."
>
> Report of The Judicial Education Study Group, The American University Law Institute (1978)
>
> "Judicial education and training programs should give emphasis to orientation before or immediately after a judge takes office and before assuming judicial duties."
>
> Standards of Judicial Education, National Conference of State Trial Judges (1982)

> "Each new judicial officer (should) be required to attend a program as soon as possible after his or her qualification and before hearing cases. . ."
>
> Guidelines for Judicial Education Programs,
> National Conference of Chief Justices (1984)
>
> "The highest priority for the use of funds available to states for judicial education and training should be for the development of a comprehensive curriculum for new judges. As much as possible should be presented prior to the performance of judicial responsibilities. . .and with participation mandated."
>
> American Academy of Judicial Education (1986)
>
> Academy 1986 Conference on Competence Before
> Judgment brochure (emphasis supplied)

The staff did not recommend this application for discussion. The Board members refused to discuss it. Therefore, they rejected it.

6.4 Separation of Powers Model Judicial Education Program.

When the Academy staff was determining what purposes Congress wished to support through SJI, it was noted that the doctrine of separation of powers was one such area of interest. Therefore, it sought to further this Congressional and SJI interest by developing a model training program on this subject, for use by the states.

No other application of this sort was submitted. No program of this sort exists. We were awarded $55,000.00 to do this, by a five to four vote.

6.5 Career Judicial Writing Program for Appellate Judges.

One continuing need is to always be devising innovative programs. The Academy developed the concept of judicial writing programs for both appellate and trial judges. The purpose of this grant application was to take the existing appellate program and refine it through an innovative approach, which would make available to an appellate judge, throughout his or her career, various types of services relating to helping them to improve their writing. A similar program would be later developed for trial judges.

No other application of this sort was submitted. Letters of endorsement were received from State Supreme Court justices and a JEO who has used Academy writing faculty.

It was announced that the staff did not recommend this paper for discussion. A Board member requested that it be discussed. A staff member said that the reason that it had not recommended the application for discussion was that it was not a concept paper that had been previously submitted. The Academy Director, June, 1987, spoke with the Deputy Director of SJI. He asked if the grant applications could cover any subjects mentioned in concept papers, even though that might result, for example, in grant application one containing a project that had been mentioned in concept paper three. The Deputy Director said that such action would be appropriate. See letter addressed to executive director confirming the telephone conversation (Enclosure 8). An SJI staff member called an Academy staff member to mention that this application had not been in a concept paper. The Academy staff member cited by concept paper number and page the point at which this updating had been mentioned. "The products listed to be updated ... would be .... Judicial Writing.....", (pages 2, 4, concept paper C-87-1-135). The SJI staff member then said that it was all right to submit it (see Academy staff memo - Enclosure 8).

The Board voted to consider this application as a concept paper, deferring action on it until the December, 1987 Board meeting. Then it would be voted on as to whether or not to invite a grant application, which would not be voted on until 1988. All other applications on which action was deferred will be acted upon as applications at your December, 1987 meeting.

We think that the facts justify our requesting that you act upon it as an application at your December, 1987 Board meeting the same way the facts would have supported your acting on it this way at your August, 1987 Board meeting.

6.6 Judicial Education Newsletter.

As a part of improving judicial education the Academy felt that it would be appropriate to have a newsletter that provided information to those in the judicial education community, reviving its publication of this sort done with LEAA funding. The National Association of State Judicial Educators (NASJE) had submitted a similar proposal. They had been told by SJI that they could not receive funding because they had no experience in grant management. NASJE then requested the National Center to provide the financial management and staff for this project. The Board members decided that these two applications should be compared to one another and discussed at the same time.

COMPARISON

		NASJE	AAJE
1.	Staff initially announced application costs	$18,260	$46,097
	The Board members then discussed that NASJE should be funded, since it was less expensive.		
2.	Staff announced that it had made a mistake. The Academy's proposal was less expensive than NASJE's.		
	Cost, per issue	$18,493	$11,528
	Board members' choice - NASJE's proposal - which was 60% higher than the Academy's.		
3.	Utilizing outside advice	none	Advisory Board - NASJE, invitees, NJC, NCSC, NCFL, Federal Judicial Center, American Association Law Schools, SJI.

		NASJE	AAJE
4.	Source of Content	JEOs and "other SJI - funded projects"	these sources, plus other information generated by National judicial training organizations, Federal Judicial Center, Association of American Law Schools, SJI, state legislators, governors, educators, and" other organizations directly involved in judicial education."
5.	Types of Content	"innovative ideas, problem solutions and other information"	"new developments of immediate importance or value, concepts providing new perspectives and guidelines for continued improvement of judicial education process, regular columns about people, policies, resources and events, guest editorials
6.	Dissemination	State judicial educators	state judicial educators, chief justices, state court administrators, state judicial education policy and planning committees, national training organizations, federal judicial center, members of Congressional Judiciary Committees, individuals and organizations outside the judiciary interested in the judicial process, deans of law schools,

		SJI Board, selected number of legal/ judicial reporters "we (Academy) feel it vital that the public be made aware of progress being made in court improvement through education and career development."
7. Ensuring impact-permanence and easy info access		
- provide 3 ring binders	no	yes
- prepare cumulative index	no	yes
8. Meet SJI Guideline for innovation - could become "a professional journal"	not mentioned	possibility mentioned
9. Staff capability	editor not named	Academy has previously published such a newsletter-person identified as newsletter editor-25 years as editor
10. Cooperation		Academy has such record - see Enclosure 9 from Academy LEAA funded newsletter, indicating receipt and publication of information from state and national organizations.
11. Board members' choice NASSE proposal-which was 60% higher than the Academy's.		

6.7 Updating Existing Programs Offered by National Training Organizations.

Part of improving services to state judges would be to improve the programs of the national judicial training organizations which are attended by state judges.

SJI Guidelines mention the "effective allocation of limited court education resources" (II B 2 b) and state that SJI will, in rating grant applications, give "substantial weight" to the project's "replicability in other jurisdictions" (II B 2).

The National Center For State Courts was awarded $34,010 for one year for research relating to updating one of its nationally based programs. The applicant did not claim that this program was replicable in other jurisdictions.

The National Judicial College submitted a grant application for $186,161 for one year only for research relating to revising national program curricula. It did not state that the programs to be developed were replicable in other jurisdictions.

The Academy asked for $174,051 for one year to research and prepare materials for seven programs.

> ...serving not only the Academy's interest in enhancing its national programs ... (but formulating) each program so that it is deliverable ... at in-state residential conferences ...at in-state learning centers ... for in-state individual self-study anywhere.

Academy Grant Application
A-87-1-45, pages 3, 4
(emphasis supplied)

We were awarded $55,000 to do two of our programs.

Our products were to be not only used at our national programs, but were to be designed for state use, making the project highly cost-effective, making "effective allocation of limited court education resources." Not so with the applications from the National Center and National Judicial College.

The following is the action the SJI Board members took in August on the application from the National Judicial College discussed above. SJI published a document entitled "Applications Not Selected For Round 1 Funding" (Enclosure 10-emphasis supplied). There were nine applications listed.

Two of these applications were not from either the Academy or the NJC. They were rejected by the SJI board members. Rejection means that, if they wanted to try again they would have to start the process all over again, and with "prejudice" -- i.e. having been once rejected. An application, A-87-1-05, "Applicant: National Judicial College" appears on this list, seemingly rejected. It was, however, not an application from NJC - "The National Association of State Judicial Educators (NASJE) and The National Judicial College (NJC) request a grant . . ." (application Abstract). NASJE was advised by SJI that it could not be the direct recipient of an SJI grant because it had no grant management experience. Thus the collaboration with NJC. The application came from a NASJE concept paper, page thirty. NJC did not submit a concept paper to develop standards, which would have had to have occurred in order for it to have properly filed a grant application. Thus NJC did not have an application not receive funding. Thus the list does not accurately reflect whose application was not funded.

That leaves six applications on the SJI list. Five were submitted by the Academy. All five were rejected. That leaves the NJC application for $1867,161 for one year to perform research relating to updating its existing national program curricula and developing new courses. This application comes from its concept paper requesting $350,000 to do research and preparation of materials. SJI knows NJC will later request funding for preparation, and that SJI Board members understand that ". . . a second part to this plan, the development and presentation of a number of substantially revised new courses . . . will be presented to the State Justice Institute in the april, 1988, concept Paper round." (NJC grant application A-87-1-03 (02-B), page 20). The Academy was awarded $55,000 to do the necessary research and development for updating two of its programs within one year.

Eight of the nine papers on the list (Enclosure 10) were rejected. The list is entitled "Application Not Selected For Round One Funding" (Enclosure 10, emphasis supplied). SJI established two times when its initial funding could be awarded

- two "rounds". The NJC application did not receive funding in Round One. However, the Board members "deferred" the consideration of the application until your December, 1987 Board meeting. Voting on funding will then take place. SJI published another document, "Applications - Consideration Deferred Until Round 2" (emphasis supplied). The NJC application does not appear on this list.

Thus of the six applications on the SJI list of applications (five from the Academy, one from NJC) "Not Selected For Round 1 Funding" (Enclosure 10), the five from the Academy were rejected, the one from NJC deferred for voting on an award until December, 1987.

Please explain the reasons for this difference in repdorting action on the applications from NJC and the Academy.

Please also explain why, on the SJI list entitled "Applications - Consideration Deferred Until Round 2" (emphasis supplied), i.e., until December, 1987, all applications so listed, including applications from NJC and the National Center For State Courts, were deferred, except one. That one application was from the Academy. The handling of that application has been discussed in paragraph 6.5, supra.

6.8. Supporting State Judicial Education.

The purpose of SJI is to assist the states. State assistance has been a major Academy activity since 1971, and the purpose of this application was to improve the distribution of products and services to the states. The National Judicial College submitted a grant application for the same purpose.

During your discussions on grant applications you once considered two applications simultaneously, for they touched upon the same issue. It is, therefore, appropriate to make comments in this paragraph about these two comparable, competing grant applications. I will begin with the concept papers submitted by each organization. Concept papers could be submitted by any eligible organization. If a concept paper was favorably voted upon, the submitting organization was then invited to later submit a grant application. If the application was voted upon favorably, then it was awarded funds.

Concept Papers

National Judicial College (NJC)

The NJC submitted a concept paper for "State Judicial Education Service Program." It was a one year project for $500,000, a "five part project," to provide "technical assistance to the states" in addition to developing model programs for state use.

American Academy of Judicial Education (AAJE)

Our paper was to develop an "Office for Judicial Education Research and State Support." It was for a one year project for $137,950 to provide technical assistance to the states and to develop model programs and services for state use.

Both applications mentioned technical assistance.

Board Action at Concept Paper Stage

NJC

This paper was placed into the category of judicial education. The SJI staff recommended it for Board discussion.

AAJE

When SJI staff announced the papers to be considered in the judicial education category, it became clear that AAJE's paper was not included. I inquired of the executive director why not? He said: the staff had placed this paper into a different group -- the technical assistance category; when all staff recommended papers in that category had been discussed, no Board member called up for discussion the Academy paper, and it was, therefore, rejected.

The discussion of the papers in the technical assistance category concluded before those in the judicial education category were taken up for discussion.

A few minutes later the same inquiry was made of the deputy director, before he had had any conversations with the executive director. He gave the same answer. A few minutes later, during a break, the executive director advised me that those two answers were incorrect, that the Academy paper had been "misplaced." It was then placed into the category of judicial education.

All concept papers in the judicial education category were approved, and the organizations submitting them were invited to submit grant applications.

Board Action at Grant Application Stage

NJC

The College's application was for two years for $285,349, to develop five model programs for use by states. This was its only element; the other proposals in the concept paper were not included in the grant application. NJC was awarded a grant for one year for $125,000 to develop three model programs for state use.

AAJE

Our request was for the same programs and services described in our concept paper. It was a request for one year for $331,408. It included a request for funds for a number of model programs to be developed for state use.

The staff did not recommend it for discussion and the Board refused to discuss it. Therefore, it was rejected.

As I have previously mentioned in this letter, a basic question is how best to determine how to improve state judicial education and training. A core question is how best to provide the needed programs and services in order to achieve this improvement. Both of these papers dealt with a key issue:

what national judicial training organization is best qualified by history and service to provide this support to the states? Therefore, further comparisons are in order. A brief summary of pertinent information is as follows.

The Academy was founded with twin purposes: to present national training programs and to support state judicial education. Our efforts to achieve this purpose have been continuous. "The (NJC) has, in the past, engaged in ad hoc services to the states ..." (NJC Concept Paper, Round 1, April, 1987, State Judicial Education Service Program, page 5).

Comparisons

	NJC (25 years)	AAJE (17 years)
Total number of state assisted conferences	250	220
	Services to States - 1986	
Income	$3,741,466	8% of NJC
Staff	47	6% of NJC
Number of State assisted conferences	7	9
Other Services	The College's 1986 Annual Report did not list any state court services other than the ones listed under extension Programs	-assisted a state in developing instate new judge pre-bench and comprehensive curriculum in state law -basically completed a revised state Bench Book -basically completed final draft, Procedure Guide -produced 2 videotapes, one for each

of 2 states
-completed phase 1 of a training needs assessment for limited jurisdiction court
-submitted a comprehensive plan for new judge education and training to one state
-conducted a national conference on Competence Before Judgment, the Resolution adopted by unanimous vote calling on chief justices to implement pre-bench programs, whichk would mean USING STATE DOLLARS, FOR IN-STATE TRAINING, IN STATE LAW, FOR "COMPETENCE BEFORE JUDGMENT."

Enclosure 11 lists some of the Academy programs and services available to the states since 1971. The variety of these services is not matched by those of the NJC, particularly in light of the great disparity of financial resources between the two organizations.

We have made continuing efforts to support state judicial education, through our regular offers of assistance to the National Association of State Judicial Educators (see Enclosure 12).

To summarize:

- in the concept paper stage SJI staff placed identical NJC and Academy papers into different categories, the staff did not recommend our paper for discussion, and the Board initially rejected our paper, until we inquired as to why it had done so.

- in the grant application stage our application was not recommended by the staff for discussion and the Board refused to discuss it, thus rejecting it.
- thus there were two organizations seeking public funds to support state judicial education. SJI chose to fund one, without any discussion of the merits of the other organization's application - the one from the Academy.

6.9 Government in the Sunshine Act.

> All meetings of the (SJI) Board, any executive committee of the Board, and any council established in connection with this title, shall be open and subject to the requirements and provisions of section 552 b of title 5, Unites States Code, relating to open meetings.
>
> Section 204 (;) 42 USC 10703
> (emphasis supplied)

> ...meeting covered under this bill include not only sessions at which formal action is taken but also those at which a quorum or members deliberates regarding the conduct or disposition of agency business.
>
> H. Rpt. 94-880 pt. I (1976)

Board Meeting May 21, 22, 1987 (to make initial votes on awarding public funds)

- May 21 - 2 hours and forty-five minutes in closed session, before open meeting.
- There was a break after the closed meeting, before the open meeting. A Board member, who was not in a position to see me, asked an SJI staff member, "how

open should this meeting be?" The staff member, who could see me, responded "as open as can be."

- May 22 - forty-five minutes in closed session, before open meeting.

Board Meeting, August 17, 18, 1987 (to make awards, or not, of public funds).

August 17

- three hours and forty minutes in closed session in the morning, prior to the open meeting.
- unknown number of hours in the evening, in closed session.

August 18

- forty-five minutes in closed session, prior to the open meeting.

The only action in open meeting taken by SJI Board members in rejecting 150 concept papers and five Academy grant applications (and others) was as follows:

- A staff member would say that the staff did not recommend to the Board members that they discuss these papers/applications.
- The presiding officer then would ask if the Board members desired to discuss these papers/applications.
- Silence.

6.10 Allocation of Public Funds

A chart was prepared after your May 20, 21, 1987 Board meeting (see page sixteen, this letter). It indicated that sixty-nine percent of the funding requests at the concept paper stage that were acted upon favorably came from organizations with which SJI board members have a relationship.

A similar chart, concerning your August meeting, appears on page 44, infra.

6.11 SJI Board Meeting August, 1987 Percentage of Funds Requested For Judicial Education That Were Awarded or for which Voting On Award was Delayed ("Deferred" Until Board Meeting of December, 1987

Applicant	Percent of Requested Funds Awarded/Deferred
National Center for State Courts	92%
American Bar Association (National Judicial College, Appellate Judges' Seminars)	90%
American Academy of Judicial Education	8%

6.12 Conclusion

Recommendations have been made to SJI in letters of May 1, 1987, June 16, 1987, and August 11, 1987, and repeated by comments made in a letter to Senator Howell T. Heflin of the Senate Judiciary Committee and Representative Robert W. Kastenmeier of the House Judiciary Committee, a copy of which was mailed to SJI (Enclosures 1, 5, 6 and 7). We have not received any written response to these letters, except one

BOARD ACTION — MEETING AUGUST 17-18, 1987
To Award Public Funds or to Delay Voting on Awards until December, 1987
(Ten Person Board)

APPLICANTS	SJI BOARD MEMBER RELATION TO APPLICANT	FUNDS AWARDED/ VOTE DEFERRED	PERCENT OF TOTAL FUNDS AWARDED/ VOTE DEFERRED	OTHER APPLICANTS RELATED TO BOARD MEMBERS	FUNDS AWARDED TO OTHER APPLICANTS OR VOTE DEFERRED
National Center For State Courts	NCSC Board	$1,220,042	33%		
	1. Chair			- -	- -
	2. Former Chair (1)			- -	- -
	3. Former Chair			Home State Court	$150,000
American Bar Association	ABA	$ 952,808	26%		
	4. BD Member, NJC ABA Governing Body				
	5. Past Officer, Judges' Assoc.			His Court	$150,000
	6. Officer, Judges' Assoc.			Home State	$ 40,823
				- -	- -
	7. Officer, Judges' Assoc. (2)			Home State Court System	$ 28,873
A University	8. University Faculty Member in charge of Program (3)	$ 95,000	- -	- -	- -
- -	9. Court Official (4)	- -	- -	- -	- -
- -	10. State Court Administrator	- -	- -	- -	- -

Footnotes: (1) Board member's court, of which he is the chief justice, submitted a concept paper for consideration at May, 1987 Board meeting. At submittal time Board member's nomination had not been approved by the Senate. The Board, at the May, 1987 meeting invited the state court to submit a grant application. It did not do so. (2) At the May 1987 Board meeting the Board approved a concept paper from this member's state court, inviting a submission of a grant application. It was not submitted. (3) A member of the advisory committee for this project is Board member 4. (4) At the May, 1987 Board meeting the Board approved a concept paper from this member's county, inviting submission of a grant application. If awarded, a subcontract, using these funds, would have been made with the National Center For State Courts. An application was not submitted.

OF THE TOTAL DOLLAR AMOUNT OF GRANT APPLICATIONS FUNDED, OR WHERE VOTING TO AWARD WAS DEFERRED TO DECEMBER, 1987,
BOARD MEMBERS HAVE A RELATIONSHIP.

stating "... the SJI Board has strong views about the substantive amendments ..." (a copy of an SJI letter to Senator Heflin and Representative Kastenmeier, September 3, 1987).

These proposed amendments included requiring:

(1) public funds to be awarded by an expert, impartial panel, similar to provisions required of the National Institutes of Mental Health and the National Endowment For the Arts. (Certainly, an organization relating to the judiciary is singularly vulnerable if it fails to perform, or appears to fail to perform, with even-handed fairness).

(2) SJI to establish a Master Plan, for state judicial education support, by which long-term, overall objectives are set so that goals can be achieved and funds can be cost-effectively awarded, avoiding overlap and duplication, and

(3) SJI to set as the highest priority for the expenditure of funds to serve the public the support of judicial education programs that adequately train state judges in state law and procedure prior to their initiation of judicial responsibilities relating to life, liberty and property (see Enclosure 7). The merits of our proposals have not been discussed by SJI Board members at any open Board meeting, all of which I have attended.

The merits of our proposals have not been discussed by SJI Board members at any open board meeting, all of which I have attended.

Other proposed amendments to the State Justice Institute Act are before Congress. Therefore, we are asking Senator Joseph R. Biden, Jr., Chairman of the Senate Judiciary Committee, to schedule a public hearing on our recommended changes. I will also suggest to him that you be invited to appear, with me, before the Committee.

SJI can play an important role in improving judicial education. It is the best hope since LEAA for state judiciaries to obtain financial help. It ought not be lost through inequitable or questionable conduct by SJI itself. Already a writer for one national publication has questioned your executive director about the imbalance received in the awarding of funds.

I invite you to join me in appearing before the Senate Judiciary Committee. We can present our respective cases and make a public record. Then members of Congress can decide the issue, on the record.

Sincerely yours,

Douglas Lanford

Douglas Lanford
Executive Director

cc: Chief Justices
State Court Administrators
Judicial Education Officers
Submitters, Rejected Concept Papers
SJI Board
David I. Tevelin
Senator Joseph R. Biden, Jr.
Senator Howell T. Heflin
Congressman Robert W. Kastenmeier

Encls:

May 1, 1987 letter to Chief Justice Torbert
Memo re: Competition
Masterplan
Pre-Bench Education
June 16, 1987 letter, with recommendations to SJI
August 11, 1987 letter, with recommendations to SJI
Letter to Senator Heflin and Representative Kastenmeier
Letters re: Writing grant application
Judicial Education News Excerpts
SJI list Applications Not Selected For Round 1 Funding
Documents, Academy state support
Memo, Academy support of National Association of State Judicial Educators

Enclosure 1

American Academy of Judicial Education
Court Improvement Through Education

Suite 903 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

May 1, 1987

Chief Justice C.C. Torbert
President
State Justice Institute Board of Directors
Supreme Court of Alabama
Montgomery, Alabama 36101

Dear Bo:

At the Williamsburg Conference on Judicial Education I had interesting conversations with John Daffron. He indicated that the Board was always open to informal comments and information. Thus this letter.

1. Chinese Proverb

If they have it right, "A thousand mile journey begins with but a single step." I was very interested in your Board's discussion at one of your meetings about what your immediate priorities were. Your priorities will be implicitly stated by for what you provide funds, to whom, and by what process. SJI represents an opportunity for a new look at judicial education. You are not encumbered by past policies and commitments. The choices you make will set the pattern for your future giving. It can also, significantly, influence the award of other public and private funds. This suggests that this is a time for a fundamental, searching review of the allocation of public money for judicial education.

It is also timely because the Academy's work in creating a Master Plan for Judicial Competence through Education and Training (Enclosure 1). Some of the elements of this plan represent years of work by our organization. We are now in the process of announcing its concepts and their development. Perhaps the fact that we are the only organization to have developed such a comprehensive, long-term, coordinated plan has something to say about what organization, coordinating with SJI, should be supported in bringing such a plan to fruition.

2. Captain Marvel

All of us are old enough to remember that comic book character. In one of the discussions at your Board's meeting an issue came up that was presented by a Professor Marvel. It caused me to think of a process commonly used by other independent agencies. You, as trustees of public funds, might wish to consider the "Peer Review Process", used by the National Science Foundation, to obtain expertise and impartiality. Such process also produces a written evaluation of applications, available to the applicant.

3. Caesar's Wife

Applicants for Funds	SJI Board Members
National Center	Chair-Elect-National Center Board
	Past Chair, National Center Board
	American Bar Association
ABA National Judicial College	College Board of Governors and ABA Board of Governors
	Past Chair, National Conference State Trial Judges
	Executive Committee, National Conference State Trial Judges
	Past Chair, National Conference Special Court Judges

4. Will Rogers

He was not only a humorist, but a man with common sense. He said that "We are all ignorant, but just about different things." He could have been thinking about the goal of the Peer Review Process to involve people in determining awards who have had extensive education and/or training and direct work experience in the areas under consideration.

180 concept papers must be reviewed by your staff. Those individuals were chosen because of their expertise and ability in certain areas, and perhaps it is not to their best advantage to have them review papers that are outside that area of expertise. Considering the very busy schedules of all of the members of the

Board, it is really not likely that the Board members, individually, can review 180 concept papers. Again, experienced and able as the Board members are, their education and training and full-time work has not been in adult education.

5. David and Goliath

The word "competition" has been used in discussions amongst Board members. One decision was to make the application process "competitive." You may wish to consider if that word is really appropriate in the discussions concerning awarding funds to requesting organizations. One third of the budget of the National Center is represented by subsidies from the states. This enables it to significantly reduce its charge for "overhead", thus making its total requested funds lower than a competing one. The National Judicial College has substantial funding not produced by services.

Your Guidelines seem to recognize this.

> In determining which submitters will be
> requested to submit applications, the
> Institute will also consider the availability
> of financial assistance from other sources...
> VI B, page 21

Competition would seem to mean that the competing organizations were providing a service for which funds were paid. None, save one, of the continuing judicial education requests coming in are from organizations that could "compete" if they had to exist with only service-produced income. That organization is the Academy.

We will welcome true competition. We will also welcome that the non-competitive aspects of this situation be taken into account by the Board in its awarding of funds.

6. King Solomon

Perhaps you will decide that this decision can't be "split." The issue is quite clear. The National Center was organized on the basis of fundamental warranties made to potential supporters. One of these warranties was that it would not enter into areas served by other organization, i.e., judicial education.

The National Judicial College is competing with the Academy for funds to assist states in their activities. The record of state support provided by these two organization, I suggest to you, indicates that the Academy has been, since its beginning, in the forefront of this activity (see Enclosure 2). Therefore, the public's funds for supporting state judicial education should be awarded in light of the competing organizations' records in that area, particularly in light of their comparative resources.

The National Center is the "center" for court administration matters.

The National Judicial College is a single location source of national training programs.

The Academy is uniquely qualified to be the major source of support for state judicial education.

7. Leo Durouncher

Durouncher said that "nice guys finish last." Perhaps that has something to do with the letter to me from Deans

Kern and Mc Hardy, raising the need for

Enclosure 1

"cooperation." Their letter and my response to it is enclosed (Enclosure 3) along with documentation for what follows.

The Academy asked the Dean of William and Mary Law School, Williamsburg, Virginia, if he would like to have the Academy housed there, in a cooperative arrangement with the school. The Dean stated that he was interested in such an arrangement, and moved forward with his explorations. He advised the National Center for State Courts of his interest.

April 18, 1985 National Center letter to Dean John Kern, National College:

>]The Law School] was recently approached by the American Academy of Judicial Education with regard to the possibility of an affiliation between the two...[The Center] Board expressed their concern that nothing be done that might adversely affect the National Center's relationship with the National Judicial College... .Any commentss you might have would certainly be both welcome and appreciated.

May 22, 1985 letter, Law School Dean to the Academy:

> The [the Center Board of Directors]... are exploring the possibility of a connection with the National Judicial College... . The Center has advised us that they would be concerned about any effort on our part to become engaged in an independent judicial education enterprise... .These expressions by the National Center preclude our pursuing any arrangement with the Academy... .

Sincerely yours,

Doug

Douglas Lanford
Executive Director

cc: Duke Cameron Larry Cooke John Daffron Jan Gradwohl
Dan Meador Sandra O'Conner Rodney Peeples Larry Polansky

Enc. 1-3

American Academy of Judicial Education
Office of Judicial Education Research and State Support

Master Plan for State Judicial Competence Through Education and Training

1.0 **The Most Needed Support — Competence From Policy to Platform — Adult Education Principles & Practices Program**
2.0 **State Judicial Education Offices — Organization Support**
2.1 Sample Organizational Arrangements
2.2 Model State Policy & Planning Committee Guidelines
2.3 Standards of Judicial Education
2.4 Standards of Judicial Education Officer Needed Knowledge, Skills and Attitudes
2.5 Standards of Conduct — National and State Training Organizations
3.0 **Judicial Education Officer Support — Administration**
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4.5 National Audio Tape Library
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4.7 Model State Programs From State Justice Institue Priority Projects
4.8 Judge Information Needs — Research
4.9 Judicial System Needs & State Judicial Education & Training
4.10 Education Technology Research Reports
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6.1 Council on Cooperation
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6.6 Foreign Judicial Education — Comparisons — Monograph
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6.8 Model Plan — A State Center for Judicial, Executive Branch and Attorney Training
7.0 **State Judicial Education Learning Center**
8.0 **Judicial Education Newsletter & Information**
9.0 **Continuing Research and Updating**
10.0 **Technical Assistance**

Letter May 1, 1987 ENCLOSURE 2

THE COMPETENCE, THROUGH EDUCATION AND TRAINING, OF THE STATE JUDICIARY

- primarily a state responsibility
- the Academy assists states in carrying out this responsibility through
  - its national programs and services
  - making its resources available to states

STATE-ACADEMY PARTNERSHIP PROJECTS

Competence Before Judgement

- a month's in-state pre service program, involving the critical part of a comprehensive curriculum (see below)
- utilizing Academy course materials, faculty, and video-taped courses of instruction
- drawing from the experience of Academy-assisted pre service project now underway and the results of 3 pre service programs in the last 10 months (for limited, general, and appellate jurisdiction courts)
- competence in state law and practice

State Comprehensive Curriculum

- educates and trains towards acquisition of minimum needed knowledge, skills, and attitude
- a one time developed set of objectives, curriculum, course materials, and audio-visual aids, with only periodic updating needed
- cost effective
- state law and practice
- using experiences from Academy-assisted state comprehensive curriculum development

In-State Conference Assistance

- replication, in-state, of Academy programs already refined through frequent presentations, with experienced faculty
- provision of other assistance
  - program design
  - faculty (experienced in teaching the subject of their presentation)
  - videotaped courses

Regional Education and Training Meetings

In 1978–79 the Academy initiated nationwide regional meetings of judicial educators, funded by the Law Enforcement Administration, for the purpose of discussing the utility of regional judicial education conferences. The efforts of the Academy to stimulate the development of these useful activities is continuing. The chairpersons of judicial education policy committees and judicial educators from eight regions will be invited to the appropriate regional meetings in the fall of 1986 to discuss

- initiating a regular schedule of regional judicial education/training meetings that supplement and complement in-state programs
- pre service programs
- comprehensive curricula
- other regional activities

Self-Directed Study by State Judges

Available from the Academy:

- videotaped course on evidence, keyed to Federal Rules, can be tailored to state law
- videotaped pre service program, which can be tailored to state law
- development of other s[illegible]aw related videotaped courses, relying on Academy's eleven years of experience in developing videotaped instruction

Other Cooperation With States

Policy to Procedure Review

An outside, experienced evaluator may assist an organization in detecting needed changes. The Academy Executive Director (25 years of continuing education experience—assisted by the Associate Director, with 31 years as a judge on limited, general, and appellate jurisdiction courts) is available to meet with appropriate individuals and/or committees to review all or any of the aspects of a judicial education/training program. This can range from policy making to specific program details.

Supporting Judicial Educator Skills

An intensive, five-day program on the theories of learning, needs assessment, program design, presentation, and evaluation will be held in December, 1986, for judicial educators.

Individual training is available at state or Academy office, upon request.

AT YOUR SERVICE

Douglas Lanford, Executive Director, First Director, Alabama Program of Continuing Legal Education; former Associate Professor of Law, University of Alabama, co-founder and former President, Association of Continuing Legal Education Administrators; responsible for design and presentation of over 600 continuing education programs

Chief Justice A.W. Barney (ret.) Associate Director, Former Chief Justice, Supreme Court of Vermont; faculty for Academy and state-assisted conferences since 1970; 31 years of judicial experience at limited, general, and appellate courts; former Chairman, National Conference of Chief Justices.

and a faculty of over 60 judges, law professors, attorneys, and other professionals

COMPETENCE BEFORE JUDGEMENT

No American judge-ever-state, county, municipal, territorial, commonwealth, or federal, has ever assumed the bench fully competent to perform all judicial functions. It is the goal of the Academy to work with states to remedy this problem. It is a state problem. It is also a national problem. A national conference will be held in the Spring of 1986 to consider this matter.

Two will be invited from each state, territory, and commonwealth. One (the Chief Justice) will be asked to represent the branch of government most related to this problem—the judiciary. The other will be invited to represent the group the judiciary serves—the public.

Support for projects relating to this conference has been received from Ford Motor Company, Handy and Herman, Ingersoll-Rand, Insilco, IBM, Mobil, U.S. Steel, Whirlpool, and the National Endowment for the Humanities.

The issue to be addressed is whether or not judges, through the use of public funds, should be trained for competence before judgement.

WHAT IF:
A PUBLIC REFERENDUM

WHEREAS

- millions of dollars of public funds are spent each year for the education and training of judges
- thus education and training are deemed to be important by those who allocate public funds for this purpose
- judges deal with the liberty, property, and, in some cases, the lives of citizens

THEREFORE, be it resolved that judges should be educated and trained to be fully competent before they begin dealing with liberty, property, and life.

FOR THE AFFIRMATIVE	FOR THE NEGATIVE

Letter May 1, 1987 Enclosure #3

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES
ORGANIZED MAY 22, 1937

UNIVERSITY OF N
P.O. BOX 8970
RENO, NEV. 8950
(702) 784-6012

LOUIS W. McHARDY • Executive Director

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Rapid City, South Dakota
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BETTY M. VITOUSEK
Honolulu, Hawaii
HISTORIAN
WALTER G. WHITLATCH
Mayfield Village, Ohio

December 18, 1986

Mr. Douglas Lanford
Executive Director
American Academy of Judicial Education
2025 I Street, N.W., Suite 903
Park Lane Building
Washington, D.C. 20006

Dear Mr. Lanford:

We understand that your organization will be represented at the National Conference on Judicial Education in Williamsburg, Virginia, January 29-31.

While the conference hopes to address a number of issues relevant to judicial education, we thought that it may be valuable to convene, on our own, immediately subsequent to the formal adjournment of the national conference, an informal inter-organizational meeting of appropriate representatives of those groups most closely related to continuing education for state court judges and court-related personnel. We believe that this would present an opportunity not otherwise available and for which the Conference itself, is not particularly structured. From our organizations, we will have ourselves and at least two Board members present. We hope you could have similar representation at the meeting.

There are a number of concerns and developments, which affect us all and which would seem to call for closer coordination and cooperation. This is timely in light of the scarcity of current funding and the expected requirements of anticipated future funding. We rarely have a chance to meet as a group and we felt it would be opportune to take advantage of this occasion.

An Equal Opportunity Employer

Letter May 1, 1987 Enclosure 3

December 18, 1986
Page Two

We are planning a "dutch-treat" luncheon beginning at 12:30 p.m. in Room "B" of the Williamsburg Lodge on Saturday, January 31. We expect to conclude all business no later than 2:30 p.m.

We view this as a very important exchange and hope very much that you will join us. It could lead to other similar sessions in the future.

Please RSVP Angela Benedetti in Dean John Kern's office at (702) 784-6747.

Yours most cordially,

John W Kern III

Louis W. McHardy
Executive Director
Dean, National College of
Juvenile and Family Law

John W. Kern, III
Dean
National Judicial College

P.S. We will foot the bill for the luncheon and request that you reimburse us $14 per person.

LWMcH:dh
JWK:dh
cc: Mr. Ed B. McConnell

Letter May 1, 1987 Enclosure 3

American Academy of Judicial Education
Court Improvement Through Education
Organized by the AMERICAN JUDGES ASSOCIATION

Suite 903 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

March 4, 1987

Dean John W. Kern, III
National Judicial College
University of Nevada, Reno
Reno, NV 89507

Dean Louis M. McHardy
International College of Juvenile and Family Law
P.O. Box 8970
Reno, NV 89507

Dear Deans Kern and McHardy:

This is in response to your letter concerning, in part, "a number of concerns...which affect us all and which would seem to call for close cooperation." Perhaps it is appropriate to first respond to your letter by presenting to you facts concerning the Academy's history of efforts toward cooperation.

1. National College of Juvenile and Family Law

The Academy decided not to provide training on a national basis in juvenile law. The college was providing this specialized instruction.

Occasionally the Academy has provided in-state program assistance. Most of the time the Juvenile College has been contacted to seek their assistance, which has always been given.

Regional meetings of judicial education officers were jointly organized with the College to explore presentation of regional continuing judicial education programs.

The Academy has presented several national programs in domestic relations, not the Juvenile College's original mission, and it was advised that we were going to do so.

2. Institute Judicial Administration -- Appellate Judges' Seminars

When the Academy developed its judicial writing program it did so knowing that IJA did not have a comparable program.

When planning to present new national programs for appellate judges, contact was made with IJA to check the content of their programs to see if there was conflict. IJA willingly provided information concerning its curriculum.

3. American Bar Association Appellate Judges Conference

Of note, as background, is my experience with this organization. When Director of the Alabama Program of Continuing Legal Education, we initiated, in 1962, a regional appellate judges seminar. No other such seminar existed. We desired to expand this to a national series of such seminars. When the Appellate Judges Conference was organized in 1964, we began encouraging them to join with us in developing a national series of seminars. They declined to do so until 1970. They then joined with the Alabama Program in the submission of a grant application from the University of Alabama for funding for a nationwide series of appellate judges seminars. The Alabama Program planned and presented these programs, in cooperation with the Appellate Judges' Conference. The quality of these programs was rated highly by those in attendance. The Appellate Judges Conference withdrew from this cooperation and utilized its contacts to secure future grants to present these seminars. The Academy created the first judicial writing program for appellate (and trial) judges. The Appellate Judges Conference wrote to the Law Enforcement Assistance Administration (LEAA) attempting to prevent us from developing these programs.

4. National Judicial College

In the early 1970's discussions were held with the Dean, encouraging him to have the College cooperate with the Academy in providing support to states in the southeastern region. I would act as the Southeastern Regional Director of the College, and we would jointly put on state programs. He agreed. We produced a state program, with the Academy doing all of the work, featuring on the cover the information that it was a joint activity of the College and the Academy. The College Board terminated this relationship, citing as its reason, to the Dean, that the arrangement between the College and the Academy had not been made "through appropriate procedures." "Appropriate procedures" were never initiated to revitalize this arrangement.

As competition increased between the College and the Academy, several invitations were made to the Dean to meet with me. Those invitations were always declined.

The Academy concluded a contract with a state to develop an in-state training program. College personnel later offered to the state to subsidize the program if they would have the College assist them. The contract was broken.

LEAA suggested, to avoid duplication of effort of federal funding, to have the Academy utilize its LEAA funds to train limited jurisdiction judges, with the College utilizing its LEAA funds to present programs for general jurisdiction judges. We agreed to try this on a test basis. The College persuaded the Director of LEAA to grant a one-year extension of the implementation of this policy. The Director later left, before the year was up, and no further action was taken in this regard.

Further information about the College is contained in the next paragraph.

5. National Center for State Courts

During the existence of LEAA we persuaded an office within it, other than the one granting funds to national judicial training organizations, to award us funding to develop a new type of program. It chose to utilize the process then existing for transmitting funds to national judicial training organizations. This was to provide the money to the National Center which would then pass it along to the Academy. The National Center refused to pass forward the money, and the grant was lost.

One major premise on which the National Center was founded was that they would not attempt to provide services that were already being provided by others. They have absorbed the Institute for Court Management. They have announced that they will go into judicial education and training.

The National Center, the Judicial College, and then-independent Institute for Court Management met and signed a "protocol" agreeing to join together to pursue funding from the State Justice Institute.

The Academy explored with a law school the possibility of the Academy being housed there. The National Center wrote to the Judicial College, asking if such an arrangement between the Academy and the law school would damage the Center's relationship with the College. (Enclosure 1) Subsequent to that letter the National Center advised the law school that it would not look with favor on the establishment of a relationship betweem the Academy and the law school. The law school then terminated our discussions with them.

Letter May 1,1987 Enclosure 3

6. Comments

I commend you for your leadership in exploring ways to foster cooperation. One method might be as follows. Invite to a 1½ day meeting one representative from the:

- -- Institute of Judicial Administration (Appellate Judges Program, for new appellate judges)
- -- ABA Appellate Judge's Seminars (continuing education)
- -- National Judicial College
- -- National College Juvenile and Family Law
- -- Academy
- -- Institute of Court Management--National Center for State Courts
- -- National Association of State Judicial Educators
- -- State Justice Institute Board.

Prior to the meeting each national organization representative would submit to all attendees a no more than two-page, double-spaced description of their current activities. Then each would submit to all a suggested method of cooperation between all national organizations. This would also include suggested cooperative relations between national and state programs.

The purpose of the meeting would be to develop a written record of offered programs of cooperation and areas of agreement and disagreement among those present. This information could be used by SJI in determining how best to award public funds for judicial education.

Sincerely yours,

Douglas Lanford
Executive Director

DL:ns

Letter May 1, 1987 Enclosure 3

National Center for State Courts

300 Newport Avenue
Williamsburg, Virginia 23185
(804) 253-2000

Edward B. McConnell
Executive Director

April 18, 1985

Dear John:

The Marshall-Wythe School of Law which, as you know, is immediately adjacent to the National Center, was recently approached by the American Academy of Judicial Education with regard to the possibility of an affiliation between the two. This affiliation would apparently involve the Academy being housed in the Law School and at least some of its educational programs being put on there. The Dean of the Law School, who is retiring this summer, has recommended both to his successor and to the Acting President and President-elect of the College of William and Mary, that the Law School pursue an affiliation with the Academy only in conjunction with the National Center.

The National Center's Board of Directors discussed this matter at length at its meeting last week end and asked me to find out more from both the American Academy and the Law School as to what sort of relationship they had in mind and to what extent they contemplated the National Center being involved.

In the course of this discussion the members of the Board expressed their concern that nothing be done that might adversely effect the National Center's relationship with the National Judicial College. In fact, the view was expressed again of the desirability and possibility of the National College offering programs here in Willilamsburg in conjunction with the National Center and the Law School.

My purpose in writing to you is merely to let you know that the American Academy has initiated such discussions and that I am trying to find out more about the situation. Any comments you might have would certainly be both welcome and appreciated.

With best regards,

Sincerely,

Dean John W. Kern III
The National Judicial College
Judicial College Building
University of Nevada
Reno, Nevada 89557

c: Chief Justice W. Ward Reynoldson
President, National Center for State Courts

Judge Florence K. Murray
President, National Judicial College

Letter May 1, 1987 Enclosure 3

CHARTERED 1693

COLLEGE OF WILLIAM AND MARY
MARSHALL-WYTHE SCHOOL OF LAW
WILLIAMSBURG, VIRGINIA 23185

OFFICE OF THE DEAN

May 22, 1985

Mr. Douglas Lanford
American Academy of Judicial Education
Suite 903
2025 Eye St., N.W.
Washington, DC 20006

Dear Mr. Lanford:

Thank you for your letter of May 15th. I am turning this letter over to Dean-designate Timothy Sullivan who will succeed me as of September 1st.

After our talks about the possibility of your locating offices at the law school, we did a space survey and determined that we do not have sufficient space available to meet your needs. After arriving at that conclusion, I initiated talks with the people at the National Center for State Courts to determine if they would be interested in a joint venture where they would provide office space and we would furnish classrooms and, hopefully, dormitory facilities.

Ed McConnell agreed to discuss such a venture with his Board of Directors. They have now advised us that they are not presently interested and are exploring the possibility of a connection with the National Judicial College. Furthermore, the Center had advised us that they would be concerned about any effort on our part to become engaged in an independent judicial education enterprise. In view of our relationships with the National Center, and our continuing desire to work with them I have reviewed these developments with our Acting President, our President-elect and our Dean-designate who are all of the opinion that these expressions by the National Center preclude our pursuing an arrangement with the Academy, without the National Center being a party to any discussions.

We are appreciative of your interest in establishing quarters here and regret that circumstances appear to be such that we cannot further explore that possibility.

Sincerely,

W. B. Spong

William B. Spong, Jr.
Dean

WBSjr:ba

cc: Acting President George R. Healy
President-elect Paul R. Verkuil
Dean-designate Timothy J. Sullivan

Enclosure 1A

Cooperation

National Center For State Courts

- May, 1987

NCSC submitted a concept paper to SJI in order to establish a "Network" of judicial education groups and others to discuss cooperation. The Academy made a recommendation at a meeting in January, 1987 to bring together a group of this sort, to include NCSC:

Invite to a 1-1/2 day meeting one representative from the:

-- Institute of Judicial Administration (Appellate Judges Program, for new appellate judges)
-- ABA Appellate Judges Seminars (continuing education)
-- National Judicial College
-- National College Juvenile and Family Law
-- Academy
-- Institute of Court Management--National Center for State Courts
-- National Association of State Judicial Educators
-- State Justice Institute Board.

Prior to the meeting each national organization representative would submit to all attendees a no more than two-page, double-spaced description of their current activities. Then each would submit to all a suggested method of cooperation between all national organizations. This would also include sugggested cooperative relations between national and state programs.

The purpose of the meeting would be to develop a written record of offered programs of cooperation and areas of agreement and disagreement among those present. This information could be used by SJI in determining how best to award public funds for judicial education.

The January meeting was attended by representatives from all of the organizations included in the Network, including NCSC and SJI. Our recommendation was rejected. NCSC did not include the Academy in its Network proposal. A June, 1987 meeting of judicial education organizations was called by SJI, to discuss cooperation. During the meeting I asked the president of NCSC why we had not been included in the Network, since it was to be funded by public monies. A NCSC staff member who had the responsibility for determining Network membership said that he did not include us because he "did not know anything about us."

Enclosure 1A

Individuals from two other organizations recommended that we be included in the Network. The president of NCSC explained why we were not included by describing the difficulty in establishing a group to advise NCSC, comprised of organizations "supporting courts." I suggested that that experience was irrelevant to the Network composition. He agreed. We are now a part of the Network.

-- January, 1987

NCSC and one other national training organizaton organized a National Conference on Judicial Education. NCSC initially chose to not even invite the Academy to have a representative at this conference. Objections raised by others caused them to invite us to send a representative to the conference.

--May, 1985

NCSC was the principal, if not sole cause of a law school terminating explorations with the Academy to have it housed there - "The Center has advised us that they would be concerned about any effort on our part to become engaged in an independent judicial education enterprise... These expressions by the National Center preclude our pursuing any arrangement with the Academy ..." Law school dean letter, May 22, 1985. (see also paragraph 7, enclosure 1)

--1974

NCSC was the direct, sole cause of loss to the Academy of LEAA grant. LEAA procedure then called for grants awarded to judicial education organizations to pass through NCSC. NCSC's only responsibility was to collect the various applications and submit them as one, and monitor financial activities. The Academy secured a grant from LEAA. It used the procedure just described. NCSC had had no contact whatsoever with LEAA about this grant, it was totally an Academy idea. NCSC tried to assume operational control of the project to be funded by the grant. This caused us to lose the grant.

> Letter to NCSC from LEAA, April 18, 1974:
>
> Pursuant to your letter of March 14, 1974, The Court Clerks Improvement Program ... has been terminated ....

Enclosure 2

THE MYTH OF COMPETITION

This is the first draft of a memo that will be submitted to the Judiciary and Appropriations Committees on this point.

A central question relating to the awarding of public funds for judicial education is to determine the relevance of the fact that an applicant is heavily subsidized from other sources.

The National Judicial College, in a memo to state court administrators, contended that its tuition fees were less than those charged by the Academy. This is true. What the memo failed to mention was that only 21% of college income came from services (College 1986 Annual Report). Two other national judicial training organizations are in similar circumstances.

If the College had to charge the full cost of its programs and services it would be in a most uncompetitive posture. For example, the College (through the University of Nevada) recently requested from SJI $64,480 for its Master of Judicial Studies Scholarship Program. An SJI Board member, who is also a College Board member, advocating the awarding of the funds, stated that the scholarships were needed because not enough students were signing up for the program, and reducing its cost would be one way of boosting applications. In other words, if it won't "sell in the marketplace," subsidize it (scholarships).

The Academy, on the other hand, in 1986, generated over 94% of its revenue from its products and services:

Competition 1986

	NJC	AAJE
Income	$3,741,466	8% of NJC
Staff	47	6% of NJC
Number of conference days	285	85
Conference days per capita-staff	6	28

Enclosure 2

Another example of subsidy is represented by the policy of one state: "...the formula... for awarding education grants is based on National Judicial College rates." Since these subsidized rates are less than ours a judge must pay the difference. This is obviously a barrier to a judge from that state having equal access to our programs. It is a barrier, without regard to the merits of the "competing" programs.

"Competition" would seem to mean that two organizations are selling products and services to the market, and the one that is most competitive (non-subsidized) wins. Ask Lee Iacocca.

Many of the Academy's innovative concepts and products would have developed much earlier had we had subsidies. Some that were not developed at all would have been brought to fruition. Thus, the public has lost because the subsidy factor has not been previously a part of decision-making in the awarding of public funds.

Enclosure 3

American Academy of Judicial Education
Office of Judicial Education Research and State Support

Master Plan for State Judicial Competence Through Education and Training

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10.0 **Technical Assistance**

Enclosure 3

PROGRAM NARRATIVE

This page describes the relationships between all of the Academy Grant Applications (GA) and the Master Plan (MP), attached. SJI Guidelines refer to a "comprehensive program of judicial education." What is lacking and more needed is a comprehensive plan for the development of all of the resources and services that should be available to states. Such a plan would be developed by GA2. Other objectives are to: significantly increase the adult education knowledge and skills of key players in state Judicial Education and Training (JET), GA1, MP1.0; improve JET planning skills (GA2, MP2.2); facilitate having judges be competent before dealing with life, liberty and property (GA3, MP5.1); produce a model, complete curriculum for adaptation by states for in-state replication and better define roles of states and national training organizations (GA3, MP5.2, .3); improve the distribution of JET to judges by developing a blueprint for a learning center (GA2, MP7.0); make available to states up-dated, replicable, transferable, programs of provent merit (GA6, MP5.8); develop model programs for use by states (GA7, 8); provide states with information on a regular basis about available programs and services - Judicial Education Newsletter (GA 9, MP8.0); establish a major source of state JET support to implement the above described activities and others, in sought-for cooperation with states, national judicial training organizations and others (GA4); and provide operational support for the Academy's national programs (GA5). This is the most comprehensive, fundamental, and cooperative approach for improving state JET presented to SJI.

Enclosure 4

American Academy of Judicial Education
Court Improvement Through Education
Organized by the AMERICAN JUDGES ASSOCIATION

Suite 903 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

RESOLUTION

WHEREAS THE OBJECTIVE OF ALL COURTS IS TO RENDER WITHOUT DELAY, CORRECT, WELL REASONED AND FAIR DECISIONS IN ALL MATTERS BEFORE THEM AND TO MAINTAIN PUBLIC CONFIDENCE IN THEIR DECISIONS,

AND, WHEREAS ALL NEW JUDGES SHOULD BE PREPARED BEFORE UNDERTAKING THEIR RESPONSIBILITIES,

AND, WHEREAS THE EDUCATION AND TRAINING OF NEW JUDGES WILL ADVANCE THE REALIZATION OF THESE OBJECTIVES,

BE IT RESOLVED, THAT THE CHIEF JUSTICE OF EACH STATE COURT IMPLEMENT PRE-BENCH EDUCATION AND TRAINING FOR ALL JUDGES AS PART OF A COMPREHENSIVE JUDICIAL EDUCATION PROGRAM.

THIS RESOLUTION UNANIMOUSLY ADOPTED BY PARTICIPANTS ATTENDING THE NATIONAL CONFERENCE "COMPETENCE BEFORE JUDGMENT" HELD AT THE O'HARE HILTON, CHICAGO, ILLINOIS, OCTOBER 25-26, 1986.

Enclosure 4

SHOULD A JUDGE BE COMPETENT BEFORE DEALING WITH LIFE, LIBERTY, AND PROPERTY

FACT NEVER, IN THE HISTORY OF THIS COUNTRY, HAS A JUDGE — STATE, COUNTY, MUNICIPAL, JUSTICE COURT, TERRITORIAL, COMMONWEALTH, OR FEDERAL — ASSUMED THE BENCH MINIMALLY COMPETENT IN ALL AREAS OF HIS OR HER JUDICIAL RESPONSIBILITY.

It's difficult to believe that the new legally-trained judge is expected to make the difficult transition from advocate to arbiter entirely on his or her own... immediately. Even more difficult to believe is that approximately 15,000 judges lack any legal background at all! Every year, hundreds of non-lawyers become judges without courtroom experience or even basic knowledge of the laws they are sworn to uphold.

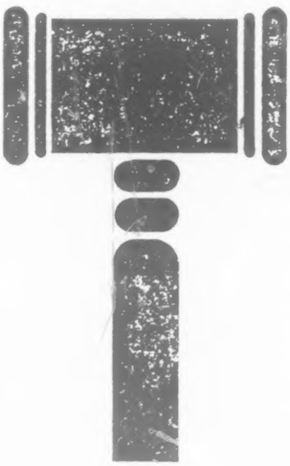
"New judge" training — of very recent origin, at that— almost always takes place AFTER service entry, as much as a year after. In the meantime, the judge makes countless decisions affecting liberty and property and sometimes life itself. The few pre-service programs that do exist fail to provide the recommended minimum of one-month's education and training in all judicial responsibilities.

Ironic, isn't it, that the American judiciary lags behind other nations in requiring competence before judgment? Judicial aspirants in France, West Germany, and Japan spend two years taking courses designed to prepare them for the judicial experience.

Executive branch members — state law enforcement officers — receive pre-service training... months of procedural indoctrination even though they were previously capable of donning a uniform, driving a car and firing a weapon.

Since 1971, the American Academy of Judicial Education has been advocating pre-service education and training. Others have expressed their support for the concept.

"The most critical deficiency appears to be (lack of) adequate entry-level training for new judges."



The National Manpower Survey of the Criminal Justice Court System

"Every judge prior to assuming judicial responsibilities should receive adequate orientation."

Report of the Judicial Education Study Group
American University Technical Assistance Project

We at the Academy believe this "most critical deficiency" exists only because chief judicial officers have never had time, among their many responsibilities, to apply their full attention to the problem. Nevertheless, failure to take action will cause inevitable consequences, if it hasn't already: injustice and expense to litigants. Loss of public confidence in the judicial system, and weakening of the system itself. Exposure of judges to liability and career jeopardy.

What is needed is the opportunity to focus on this issue in a supportive and productive environment. The National Competence Before Judgment Conference will provide that environment, bringing state representatives together to discuss new judge problems and solutions. And plan their own programs before they are confronted with a public mandate.

Enclosure 4

PRE-SERVICE AND COMP

- **State Funds for In-State Programs**
- **Pre-Service Competence in State Laws and Procedures**

This approach represents the best likelihood of securing additional and continuing funds. Legislatures and other potential financial supporters would recognize that a long-range, comprehensive program in being is much more cost-effective than annual expenditures for isolated and disjointed efforts.

PHASE 1
Training Needs Assessment

If an education and training program doesn't meet the judge's needs for appropriate knowledge, skills, and attitudes, it serves no purpose and wastes public funds. **Professional needs assessment is a vital first step.**

The best way to determine a new judge's needs is by an intensive analysis by small groups able to provide a variety of perspectives. For example, new judges themselves, and experienced judges from both rural and urban areas. Others working in the judicial environment such as civil and criminal trial lawyers, prosecutors, and public defenders.

Needs suggested by these small groups can be validated by questionaires to a statistically significant number of other individuals in each of the above categories. From this, you can rank needs by priority, the most essential becoming part of the pre-service phase.

PHASE 2
Planning and Development

From the professional needs assessment you can determine the total number of hours to allocate and how many for each subject. Then develop schedules, course materials, methods of instruction (lecture, simulation, demonstration, role playing, workshop, etc.), and audio-visual aids (including computer-assisted instruction.)

A lesson plan for each subject would include a statement of objectives, lecture outline, workshop problems and solutions, course materials and visual aids, plus guides for workshop leaders and curriculum administrators.

A procedure guide that takes new judges step by step through basic procedures can be keyed to a bench book, a compilation of state case and statutory law. These are particularly useful for non-attorney judges and, in fact, the curriculum itself could be designed so a non-attorney judge could meet a constitutional challenge to his ability to try misdemeanor cases and thus eliminate de novo trials.

A "learning center" could be established. Materials and training aids located there could be used for state-wide in-residence programs; judge-mentor training; individual study at the center; and self-directed study at home or office.

PHASE 3
Pre-Service Education and Training

This is what the tax-paying public would expect all new judges to receive. It should be as long as possible to cover the most essential issues. The Academy's proposal for a National Model calls for at least one month of intensive instruction with two weeks in residence. . . one week observation with a mentor judge. . . and a final week in residence for review and analysis, plus presiding over simulated trials.

(Hardly an undue burden since, in some states, highway patrol officers receive SEVEN weeks pre-service training and must work under a supervisor several additional weeks.)

Options for judge availability for this Pre-Service phase: on the payroll before being sworn in or after being sworn in while an active or retired judge handles their cases.

Training the single judge needs no longer be a problem. At the learning center and/or by using self-directed study materials with a mentor judge, he would receive training roughly comparable to everyone else.

Founded in 1970 to assist judges improve their knowledge, skills, and attitudes, the Academy conducts national and state conferences (nearly 400 in the last ten years), and provides technical help to states on a variety of issues.

The Academy has a record of innovative "firsts", many emulated by others. They include:

- In 1971, advocating continuing education throughout a judge's career to meet different needs at different stages, from pre-service to LL.M.
- Expanding that concept to provide career-long programs in a specialized field — Judicial Writing — for appellate and trial judges
- Use of simulated trials videotaped for replay and critique
- Initiation of Judicial Writing Programs
- Development of a National Model "entry-level" program that has been replicated over forty times

AMERICAN ACADEMY OF JUDICIAL EDUCATION

Suite 903
2025 Eye Street Northwest
Washington, DC 20006
(202) 775-0083
Organized by the American Judges Association

WHAT IF: A PUBLIC REFERENDUM

WHEREAS:
—millions of dollars of public funds are spent each year for the education and training of judges
—thus education and training are deemed important by those who allocate public funds for this purpose
—judges deal with life, property, and, in some cases, the lives of citizens
THEREFORE, be it resolved that judges should be educated and trained to be fully competent before they begin dealing with life, liberty, and property.

☐ FOR THE AFFIRMATIVE
☐ FOR THE NEGATIVE

Enclosure 4

REHENSIVE CURRICULUM

PHASE 4

Comprehensive Curriculum Completion

A suggested schedule for the first year following the pre-service program is quarterly one-week seminars held in state. Other methods might be in-state regional meetings, training at a learning center, self-directed study, and judge mentor instruction.

Subsequent to the completion of the curriculum, future training then could be obtained through advanced in-state programs, developed by much the same procedures outlined, and national programs.

Private Sector Support

The Academy gratefully acknowledges financial contributions and encouragememt from the Ford Motor Company, Ingersoll-Rand, Mobil, Whirlpool, Handy and Harman, Insilco, U.S. Steel, and IBM.

Public Sector Support

Planning for a program on Humanities and Judging has been completed and can be incorporated into planning for new judge education and training. Funding for the Academy effort came from the National Endowment for the Humanities and is much appreciated.

Judicial Leadership

There are two ways a pre-service and comprehensive curriculum can be implemented. On a state-wide basis for all judges of a particular court who have a variety of responsibilities. By a metropolitan court system where judges have more specific responsibilities that change as they move to other divisions.

The West Virginia Supreme Court of Appeals has accepted our concept and implemented a program for its limited jurisdiction judges. This includes development by the Academy of a procedure guide keyed to a bench book. Materials developed have been used in training individual new judges. A comparable program for new general jurisdiction judges is also underway and has included in-residence sessions and self-directed study.

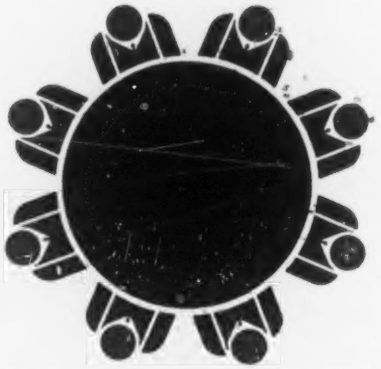
For a metropolitan system, all new judges receive instruction in matters of common interest . . . i.e., judicial ethics and the role of a judge. The pre-service and comprehensive curriculum that follows pertains only to the division within the court system to which the judge is initially assigned. As he is re-assigned, further instruction would be given on subjects pertinent to his new division.

The Dade County, Florida, Metropolitan Court has endorsed and, with Academy assistance, begun implementing the concept.

By the time the Conference takes place in October, other jurisdictions may be well along with their own Competence Before Judgment programs. The Academy has detailed plans available now if you wish to develop your own program.

Anticipating positive results at the Competence Before Judgment Conference, a second conference will be held December 13-14 in Chicago involving chairpersons of state judicial education and training planning committees, education officers, and others. The purpose will be to work towards implementing the curriculum on each state and to explore ways of combining efforts. "Cooperation for Competence". . .to accomplish more for less money.

WHAT YOU CAN EXPECT FROM THE NATIONAL CONFERENCE ON COMPETENCE BEFORE JUDGMENT



O'Hare Hilton, Chicago, October 25-26, 1986

Beginning with the issue whose time certainly has come, all the ingredients will be on hand for a worthwhile and productive gathering.

Essential Purpose

To bring about a fundamental and essential change in how public funds are spent for the education and training of new judges. To make this a top priority in each state for each state, and make sure the program begins BEFORE judicial service begins. . . for as long as possible, in state laws and procedures.

The essential participants

Only TWO people from each state, territory, and commonwealth will be invited. One will be the Chief Justice of the highest appellate court, for obvious reasons. The other from outside the system, a thoughtful spokesperson for public interests and concerns. Someone able to rally public support and help secure funding.

Small group dynamics

Even though a gathering of modest proportions composed of knowledgeable people, most work will be done by small groups divided equally between judicial and public representatives. Participants will be able to focus on pertinent topics and come to grips with issues such as whether lawyers really do need education and training as judges and how to provide it for isolated individuals.

A single weekend

Not only does this enable busy people to attend, it substantially reduces the cost to the public through reduced air fares.

An action-oriented agenda

Participants will receive topical material well in advance so they can get their workshops off to a fast start. The only general meetings will be the keynote session Saturday morning and the report-discussion session Sunday morning.

Accessibility and setting

The Hilton is connected to Chicago's O'Hare Airport terminal, easy to walk to and a self-contained setting.

veryone will have the opportunity to express their own viewpoints freely. To and among their peers, in confidence. Following workshop reports and wrap-up discussions Sunday morning, participants may issue any statements they wish to make, individually or in concert.

Enclosure 5

American Academy of Judicial Education
Court Improvement Through Education

Suite 903 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

June 16, 1987

Mr. David I. Tevelin
Executive Director
State Justice Institute
120 So. Fairfax Street
Alexandria, VA 22314

Dear Dave,

This is in reply to your letter of June 13, 1987.

I think that the following points are ones that should be on the agenda in order indicated.

1. Suspend Deadlines
Suspend the deadlines for judicial education grants, develop a comprehensive plan by which grants may be made, and establish an expert, impartial "peer panel review" process.

2. Involve Institute Judicial Administration and Appellate Judges' Seminar.

3. Standards of Conduct
Violations of forfeit receipt public grounds.

4. History of Cooperation
Relevant to award of funds.

5. Subsidy and Competition
Relevant to award of funds.

6. Record of State Support
Relevant to award of funds.

7. Written Recommendation -- Who Does What

Cordially yours,

Douglas Lanford
Executive Director

Enclosure 6

American Academy of Judicial Education
Court Improvement Through Education

Suite 903 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

August 11, 1987

Chief Justice C.C. Torbert
President, State Justice Institute
Supreme Court of Alabama
445 Dexter Avenue
Montgomey, Alabama 36101

Dear Chief Justice Torbert:

This letter is in reference to the letter written to you on May 1, 1987, by Douglas Lanford.

In his letter, Mr. Lanford suggested that the Institute could do the following:

1. Establish a master plan for continuing legal education, against which your funds would be more cost-effectively awarded;

2. Establish an expert, impartial "peer review process" for the award of public monies;

3. Consider, in awarding funds, the fact that some potential recipients are subsidized, enabling them to provide services at non-competitive prices;

4. Establish, based on its record, the Academy as a principal source of support to the states in continuing judicial education;

5. Have the record of cooperation of the requesting organization a factor in awarding public funds.

I am sorry that you have not been able to respond to Mr. Lanford's letter. As far as I know, only one matter mentioned above has been considered. The Institute's guidelines were amended, in a partial response to the suggestion to establish an expert, impartial panel. They now state "outside experts may be used, when necessary."

It seems appropriate, therefore, to pursue other methods of bringing about changes that will strengthen the Institute's role as a trustee of public funds.

I enclose a copy of my letter to Senator Heflin and Representative Kastenmeier.

Sincerely yours,
Franklin D Cleckley
Franklin D. Cleckley
President, Board of Directors

enc

cc SJI Board
David I. Tevelin
Richard Van Duizend

Enclosure 7

American Academy of Judicial Education
Court Improvement Through Education

Suite 903 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

August 12, 1987

Senator Howell T. Heflin
Senate Office Building
Washington D.C. 20510

Representative Robert W. Kastenmeier
House of Representatives
Washington, D.C. 20515

Dear Senator Heflin and Representative Kastenmeier,

This is to request an opportunity for our Executive Director, Douglas Lanford, to meet with the appropriate staff members to discuss the process for submitting proposed amendments to Senate 1248.

I think that these amendments would contribute significantly to achieving the purposes of the State Justice Institute. One amendment would require that public money be awarded through the actions of an impartial, expert review panel. This would be similiar to the requirements imposed by Congress on the National Science Foundation.

Another amendment would require the Institute to prepare a plan by which funds are awarded. This would avoid duplicative activities and enhance the cost-effective expenditure of public funds. Such a plan would establish goals towards which the funding of specific projects could be directed. An example of such a plan is enclosed.

Finally, a priority for the expenditure funds for "continuing judicial education" should be for educating and training judges to be competent before they begin dealing with life, liberty, and property. You might be interested in our efforts to correct the situation, as represented by the enclosed brochure. Would the public, if its members knew, tolerate the expenditure of their funds for "on the job training"

Enclosure 7

as a paramount way of training judges, as opposed to the training for competence before beginning to deal with life, liberty, and property?

These amendments, to strenghten the Institute, are fully supportable in principle. However, documentation for these needed changes is enclosed. More is available.

Mr. Lanford will call your office on August 13, 1987, to determine when he may meet with the appropriate staff members in order to discuss the procedure for submitting these proposed amendments.

Sincerely yours,

Franklin D. Cleckley
President, Board of Directors

cc: Douglas Lanford

Enclosure 8

American Academy of Judicial Education
Court Improvement Through Education

Suite 903 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

June 22, 1987

David I. Tevelin
Executive Director
State Justice Institute
120 South Fairfax Street
Alexandria
Virginia 22314

Dear Dave,

This is in reference to our telephone conversation of June 22, 1987.

I inquired as to how we might prepare grant applications and their relationship to concept papers previously submitted.

For example, I asked if we could submit one grant application for each of the seven concept papers previously submitted. You said that would be permissible.

I also asked if, in a grant application, I might have combined several of the concept papers.

Another option would be to have in two different grant applications parts of one concept paper.

I indicated that, however packaged, the grant applications would not contain material that was not in the concept papers.

My notes indicate that any of the above alternatives are permissible. I will assume that my notes are correct, unless I hear from you.

Enclosed is a re-typed letter that I submitted to you at our meeting on June 17, 1987.

Cordially yours,

Douglas Lanford
Executive Director

Enclosure: a letter

Enclosure 8

American Academy of Judicial Education
Court Improvement Through Education

Suite 903 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

MEMORANDUM

TO: Doug Lanford

FROM: Jeff Lapin

RE: Phone conversation with SJI on August 4, 1987

On the aforementioned date, I was contacted by a staff member from the State Justice Institute who I believe to be Catherine Pierce concerning several questions the Institute had concerning Grant Application #8. The Judicial Writing Program.

Ms. Pierce wished to know specifically in which concept paper the writing program was mentioned and why we had submitted the program as a separate grant application.

I informed her that mention of the writing program could be found in concept paper C-87-1-135 along with the other programs slated for updating. Then, I told her how we had spoke with Richard Van Duizend about separating the program from the others due to its unique and innovative nature. Mr. Van Duizend had consented to this proposal as the program had been included in a concept paper, and I explained to Ms. Pierce that he had agreed to notify the staff of this change.

At this point, Ms. Pierce thanked me and said that this information would clear up any problems and that there were no further questions at that time concerning that, or any other, grant application.

JL

Enclosure 9

CONFERENCE CALENDAR

NOVEMBER

Nov. 21-23—New Hampshire District and Municipal Court Judges Conference, AAJE, Durham, N.H.

Nov. 21-23—Kentucky County Judges, NCSJ, Lexington, Ky

DECEMBER

Dec. 1-6—Court Administration Session, NCSJ, Reno, Nevada

Dec. 2-6—New Judges Orientation Seminar, sponsored by Administrative Office of the Courts, Trenton, New Jersey, conference located in Hasbrouck Heights, N.J. Contact: Mr. Richard Saks

Dec. 3-4—Winter Meeting of the Oklahoma Judiciary, AAJE, Tulsa, Oklahoma

Dec. 5-6—Iowa District Court Judges Conference, AAJE, Des Moines, Iowa

Dec. 5-6—Juvenile Court Judges Conference, Alabama Institute of Continuing Legal Education, Montgomery, Alabama

Dec. 5-6—Mississippi Trial Judges Orientation Seminar, Mississippi Judicial College, Jackson, Mississippi Contact: Arlen B. Coyle

Dec. 6-7—Uniform Jury Selection and Service Act Workshop,* Mississippi Judicial College, Jackson, Mississippi Contact: Arlen B. Coyle

Dec. 10-14—New Mexico Magistrates Conference, AAJE, Albuquerque, New Mexico

Dec. 11-13—Virginia District Court Judges Conference, AAJE, Williamsburg, Virginia

Dec. 12-13—Specialty Academy - Management in the Judiciary, AAJE and the Continuing Legal Education Department of the University of Oklahoma College of Law, Oklahoma City, Oklahoma

JANUARY

Jan. 16-19—Ohio Municipal Judges Conference, AAJE, Columbus, Ohio

Jan. 19-23—2nd National Conference on Juvenile Justice,* co-sponsored by NCJJ and NDAA, San Diego, California

Jan. 23-24—Probate Judges Conference, Alabama Institute of Continuing Legal Education, Birmingham, Alabama

Jan. 30-Feb. 1—Mississippi—Alabama Governors' Conference on Juvenile Justice, Mississippi Judicial College, Biloxi, Mississippi Contact: Arlen B. Coyle

FEBRUARY

Feb. 9-12—Specialty Academy: Criminal Law II, AAJE, Arizona State University, Tempe, Arizona

Feb. 12-15—Specialty Academy: Evidence II, AAJE, Arizona State University, Tempe, Arizona

KEY

AAJE—American Academy of Judicial Education
NCJJ—National College of Juvenile Justice
NCSJ—National College of the State Judiciary
NDAA—National District Attorney's Association

NOTICE

The Academy is going to have its mailing lists computerized. Please submit any address corrections as soon as possible.

Name ____

Address ____

____

____

Enclosure 9

CONFERENCE CALENDAR

OCTOBER

October 1-3—Judicial Conference for Virginia District Court Judges, AAJE, Virginia Beach, Virginia

October 5-10, Graduate Session: Evidence II, NCSJ, Reno, Nevada

October 8-10—Tennessee Judicial Conference Seminar, AAJE, Chapel Hill, Tennessee

October 8-11—Annual Meeting on Recommended Standards for Administration of Juvenile Justice, NCMC, St. Louis, Missouri

October 12-17—Administration Law II, NCSJ, Reno, Nevada

October 12-17—Alcohol & Drugs, NCSJ, Reno, Nevada

October 12-17—Washington World Law Center Conference of World Peace Through Law Center, WAJ, WAL, WALP, Washington, D.C.

October 16-18—Virginia Circuit Court Judges Conference, AAJE, Staunton, Virginia

October 19-24—Juvenile Justice Management Institute, NCJJ and NJCSA, Reno, Nevada

October 24—Judges and Journalists Workshop, IJC, Indianapolis, Indiana

October 26-31—Budget, Planning and Financial Controls in Courts, ICM, Denver, Colorado

October 27-30—Annual Meeting, NACA, Houston, Texas

October 27-31—Seventh Annual Conference, NACA, Houston, Texas

NOVEMBER

November 2-7—Evidence-Special Courts, NCSJ, Reno, Nevada

November 2-21—Regular Four Week III (3 weeks), NCSJ, Reno, Nevada

November 7-8—Municipal Court Judges Conference, AAJE, Virgin Islands

November 9-14—Graduate Session: The Judge and the Court Trial, NCSJ, Reno, Nevada

November 13-15—New Hampshire District and Municipal Court Judges Conference, AAJE, Bedford, New Hampshire

November 16-21—Graduate Session: The Judge and the Jury Trial, NCSJ, Reno, Nevada

November 16-22—15th Annual Conference, AJA, Atlanta, Georgia

November 18-20—Tennessee Appellate Judges Seminar, AAJE, Nashville, Tennessee

November 19-22—National Conference, NCPJ, Sea Island, Georgia

November 24-26—Justices of the Peace Conference, AAJE, Oxford, Mississippi

November 30-December 12—Court Administration, NCSJ, Reno, Nevada

Key

AAJE:	American Academy of Judicial Education
AJA:	American Judges Association
ICM:	Institute for Court Management
IJC:	Indiana Judicial Center
NACA:	National Association for Court Administration
NCMC:	National Conference of Metropolitan Courts
NCPJ:	National College of Probate Judges
NCJJ:	National College of Juvenile Justice
NCSJ:	National College of the State Judiciary
NJCSA:	National Juvenile Court Services Association
WAJ:	World Association of Judges
WAL:	World Association of Lawyers
WALP:	World Association of Law Professors

DECEMBER

December 1-3—Specialty Academy: Evidence I (Hearsay & Cross-Examination), AAJE, College Park, Maryland

December 3-5—Iowa District Court Judges Conference, AAJE, Des Moines, Iowa

December 4-6—Specialty Academy: Criminal Law I (Search & Seizure), AAJE, College Park, Maryland

December 8-12—Court Management: Planning in the Judicial Branch, Court Management Institute, University of Maryland University College, the American University Law Institute, and AAJE, Ft. Lauderdale, Florida

American Academy of Judicial Education
539 Woodward Building
1426 H Street, N.W.
Washington, D.C. 20005

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Enclosure 10

STATE JUSTICE INSTITUTE
APPLICATIONS NOT SELECTED FOR ROUND 1 FUNDING

A-87-1-03 (02-B)

Applicant: National Judicial College

Title: National Judicial Education Curriculum Revision and Enhancement Program: Needs Assessment and Curriculum Advisory Committee

Amount requested from SJI: $186,161
****

A-87-1-05 (02-B)

Applicant: National Judicial College

Title: Establishing Standards and Guidelines for Judicial Education

Amount requested from SJI: $128,014
****

A-87-1-10 (06-D)

Applicant: New Jersey Administrative Office of the Courts

Title: Establishing the Relationship Between Judicial and Non-Judicial Components on Court Productivity

Amount requested from SJI: $72,183
****

A-87-1-21 (06-D)

Applicant: Alameda County Superior Court

Title: AMY, The Automated Court Schedular

Amount requested from SJI: $27,500
****

A-87-1-46 (02-B)

Applicant: American Academy of Judicial Education

Title: Judicial Education Newsletter

Amount requested from SJI: $46,098
****

Enclosure 10

A-87-1-48 (02-B)

Applicant: American Academy of Judicial Education

Title: Planning Judicial Education and Training: Master Planning, Instruction, and Learning Center

Amount requested from SJI: $99,332

****

A-87-1-49 (02-B)

Applicant: American Academy of Judicial Education

Title: Model State Pre-Bench and Comprehensive Curricula and Materials

Amount requested from SJI: $217,111

****

A-87-1-50 (02-B)

Applicant: American Academy of Judicial Education

Title: Office of Judicial Education Research and State Support

Amount requested from SJI: $331,408

****

A-87-1-51 (02-B)

Applicant: American Academy of Judicial Education

Title: A Model Program - Adult Education Principles and Practices

Amount requested from SJI: $325,500

****

Enclosure 11

State Support

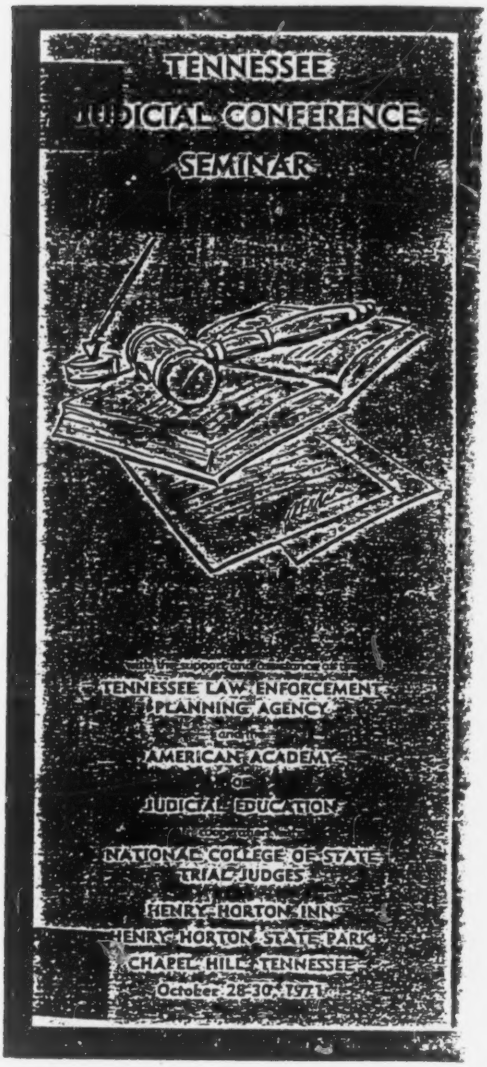
The Academy was founded with equal priorities of producing national programs and a continuing effort to assit states. "The College has, in the past, engaged in ad hoc services to the states ...." National Judicial College Concept Paper, round 1, April 1987, State Judicial Education Services Program. page 5.

The following copies of Academy brochures advertise services available to the states since 1971. They are only a few examples of such brochures. Note also the attached paper, "The Competing Applications."

ITEM 1

Brochure
Tennessee General
October. 1971

Enclosure 11



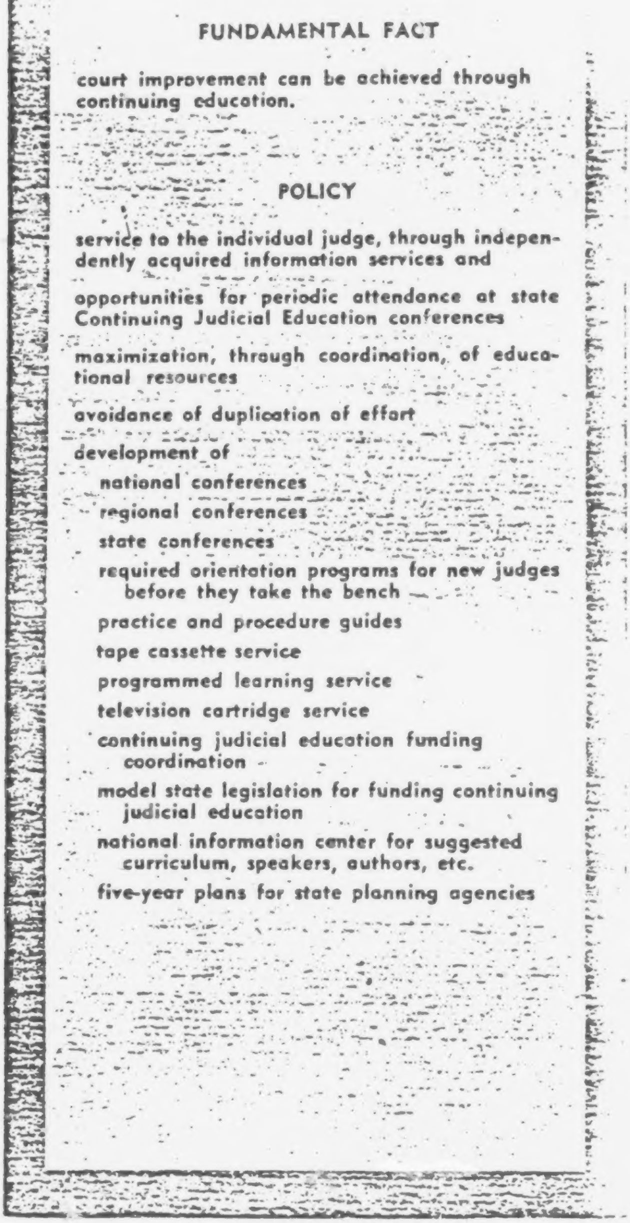
TENNESSEE
JUDICIAL CONFERENCE
SEMINAR

with the support and assistance of the
TENNESSEE LAW ENFORCEMENT
PLANNING AGENCY
and the
AMERICAN ACADEMY
OF
JUDICIAL EDUCATION
in cooperation with
NATIONAL COLLEGE OF STATE
TRIAL JUDGES
HENRY HORTON INN
HENRY HORTON STATE PARK
CHAPEL HILL, TENNESSEE
October 28-30, 1971

16. YEARS OF LOST
COOPERATION

Enclosure 11

1971 ACADEMY BROCHURE SENT TO STATES



FUNDAMENTAL FACT

court improvement can be achieved through continuing education.

POLICY

service to the individual judge, through independently acquired information services and

opportunities for periodic attendance at state Continuing Judicial Education conferences

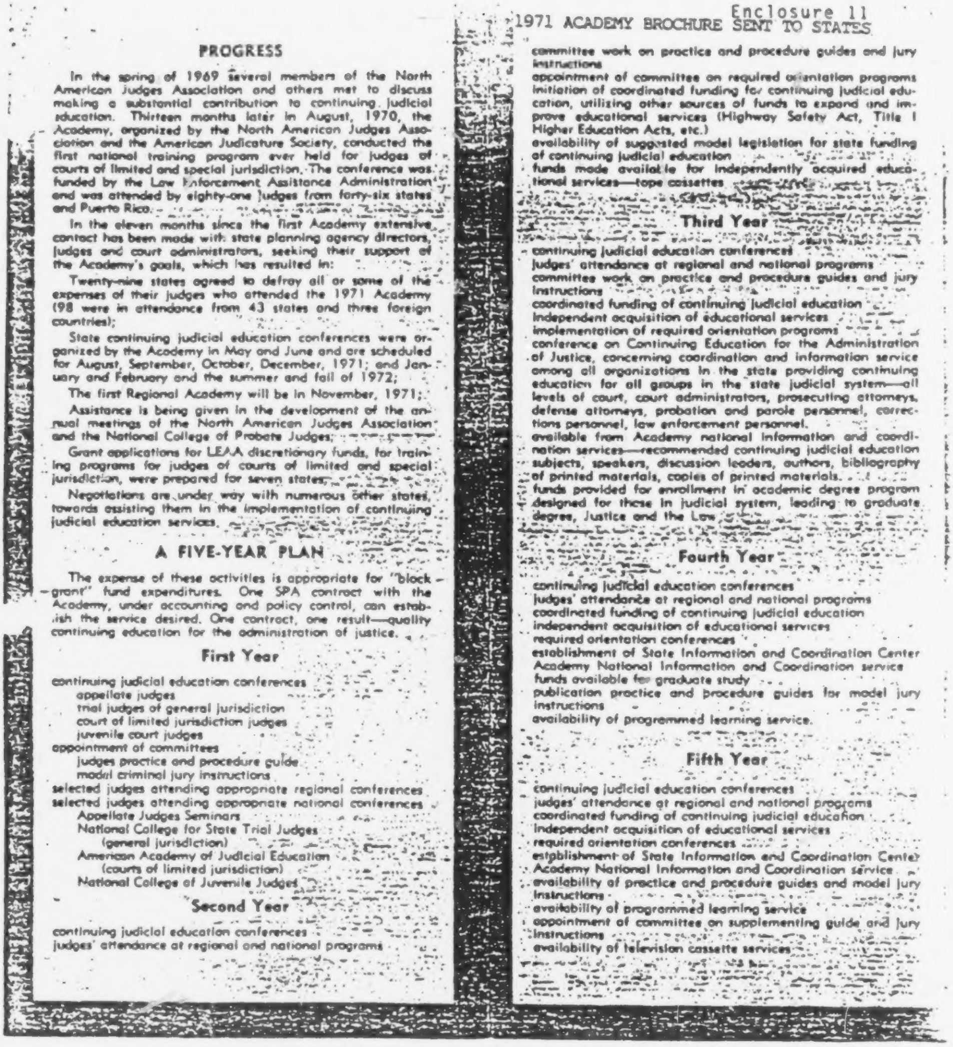
maximization, through coordination, of educational resources

avoidance of duplication of effort

development of
- national conferences
- regional conferences
- state conferences
- required orientation programs for new judges before they take the bench
- practice and procedure guides
- tape cassette service
- programmed learning service
- television cartridge service
- continuing judicial education funding coordination
- model state legislation for funding continuing judicial education
- national information center for suggested curriculum, speakers, authors, etc.
- five-year plans for state planning agencies

Enclosure 11

1971 ACADEMY BROCHURE SENT TO STATES



PROGRESS

In the spring of 1969 several members of the North American Judges Association and others met to discuss making a substantial contribution to continuing judicial education. Thirteen months later in August, 1970, the Academy, organized by the North American Judges Association and the American Judicature Society, conducted the first national training program ever held for judges of courts of limited and special jurisdiction. The conference was funded by the Law Enforcement Assistance Administration and was attended by eighty-one judges from forty-six states and Puerto Rico.

In the eleven months since the first Academy extensive contact has been made with state planning agency directors, judges and court administrators, seeking their support of the Academy's goals, which has resulted in:

Twenty-nine states agreed to defray all or some of the expenses of their judges who attended the 1971 Academy (98 were in attendance from 43 states and three foreign countries);

State continuing judicial education conferences were organized by the Academy in May and June and are scheduled for August, September, October, December, 1971; and January and February and the summer and fall of 1972;

The first Regional Academy will be in November, 1971;

Assistance is being given in the development of the annual meetings of the North American Judges Association and the National College of Probate Judges;

Grant applications for LEAA discretionary funds, for training programs for judges of courts of limited and special jurisdiction, were prepared for seven states;

Negotiations are under way with numerous other states, towards assisting them in the implementation of continuing judicial education services.

A FIVE-YEAR PLAN

The expense of these activities is appropriate for "block-grant" fund expenditures. One SPA contract with the Academy, under accounting and policy control, can establish the service desired. One contract, one result—quality continuing education for the administration of justice.

First Year

continuing judicial education conferences
  appellate judges
  trial judges of general jurisdiction
  court of limited jurisdiction judges
  juvenile court judges
appointment of committees
  judges practice and procedure guide
  model criminal jury instructions
selected judges attending appropriate regional conferences
selected judges attending appropriate national conferences
  Appellate Judges Seminars
  National College for State Trial Judges
    (general jurisdiction)
  American Academy of Judicial Education
    (courts of limited jurisdiction)
  National College of Juvenile Judges

Second Year

continuing judicial education conferences
judges' attendance at regional and national programs
committee work on practice and procedure guides and jury instructions
appointment of committee on required orientation programs
initiation of coordinated funding for continuing judicial education, utilizing other sources of funds to expand and improve educational services (Highway Safety Act, Title I Higher Education Acts, etc.)
availability of suggested model legislation for state funding of continuing judicial education
funds made available for independently acquired educational services—tape cassettes

Third Year

continuing judicial education conferences
judges' attendance at regional and national programs
committee work on practice and procedure guides and jury instructions
coordinated funding of continuing judicial education
independent acquisition of educational services
implementation of required orientation programs
conference on Continuing Education for the Administration of Justice, concerning coordination and information service among all organizations in the state providing continuing education for all groups in the state judicial system—all levels of court, court administrators, prosecuting attorneys, defense attorneys, probation and parole personnel, corrections personnel, law enforcement personnel.
available from Academy national information and coordination services—recommended continuing judicial education subjects, speakers, discussion leaders, authors, bibliography of printed materials, copies of printed materials.
funds provided for enrollment in academic degree program designed for those in judicial system, leading to graduate degree, Justice and the Law

Fourth Year

continuing judicial education conferences
judges' attendance at regional and national programs
coordinated funding of continuing judicial education
independent acquisition of educational services
required orientation conferences
establishment of State Information and Coordination Center
Academy National Information and Coordination service
funds available for graduate study
publication practice and procedure guides for model jury instructions
availability of programmed learning service.

Fifth Year

continuing judicial education conferences
judges' attendance at regional and national programs
coordinated funding of continuing judicial education
independent acquisition of educational services
required orientation conferences
establishment of State Information and Coordination Center
Academy National Information and Coordination service
availability of practice and procedure guides and model jury instructions
availability of programmed learning service
appointment of committee on supplementing guide and jury instructions
availability of television cassette services

Enclosure 11

1986 ACADEMY BROCHURE SENT TO STATES

THE COMPETENCE, THROUGH EDUCATION AND TRAINING, OF THE STATE JUDICIARY

—primarily a state responsibility
—the Academy assists states in carrying out this responsibility through
  –its national programs and services
  –making its resources available to states

STATE-ACADEMY PARTNERSHIP PROJECTS

Competence Before Judgement

—a month's in-state pre-service program, involving the critical part of a comprehensive curriculum (see below)
—utilizing Academy course materials, faculty, and video-taped courses of instruction
—drawing from the experience of Academy-assisted pre-service project now underway and the results of 3 pre-service programs in the last 10 months (for limited, general, and appellate jurisdiction courts)
—competence in state law and practice

State Comprehensive Curriculum

—educates and trains towards acquisition of minimum needed knowledge, skills, and attitude
—a one-time developed set of objectives, curriculum, course materials, and audio-visual aids, with only periodic updating needed
—cost effective
—state law and practice
—using experiences from Academy-assisted state comprehensive curriculum development

In-State Conference Assistance

—replication, in-state, of Academy programs already refined through frequent presentations, with experienced faculty
—provision of other assistance
  –program design
  –faculty (experienced in teaching the subject of their presentation)
  –videotaped courses

Regional Education and Training Meetings

In 1978–79 the Academy initiated nationwide regional meetings of judicial educators, funded by the Law Enforcement Administration, for the purpose of discussing the utility of regional judicial education conferences. The efforts of the Academy to stimulate the development of these useful activities is continuing. The chairpersons of judicial education policy committees and judicial educators from eight regions will be invited to the appropriate regional meetings in the fall of 1986 to discuss:

—initiating a regular schedule of regional judicial education training meetings that supplement and complement in-state programs
—pre-service programs
—comprehensive curricula
—other regional activities

Self-Directed Study by State Judges

Available from the Academy

—videotaped course on evidence, keyed to Federal Rules, can be tailored to state law
—videotaped pre-service program, which can be tailored to state law
—development of other state law related videotaped courses, relying on Academy's eleven years of experience in developing videotaped instruction

Other Cooperation With States
Policy to Procedure Review

An outside, experienced evaluator may assist an organization in detecting needed changes. The Academy Executive Director (25 years of continuing education experience—assisted by the Associate Director, with 31 years as a judge on limited, general, and appellate jurisdiction courts) is available to meet with appropriate individuals and/or committees to review all or any of the aspects of a judicial education/training program. This can range from policy making to specific program details.

Supporting Judicial Educator Skills

An intensive, five-day program on the theories of learning, needs assessment, program design, presentation, and evaluation will be held in December, 1986, for judicial educators.

Individual training is available at state or Academy office, upon request.

AT YOUR SERVICE

Douglas Lanford, Executive Director, First Director, Alabama Program of Continuing Legal Education; former Associate Professor of Law, University of Alabama, co-founder and former President, Association of Continuing Legal Education Administrators; responsible for design and presentation of over 600 continuing education programs.

Chief Justice A.W. Barney (ret.) Associate Director, Former Chief Justice, Supreme Court of Vermont; faculty for Academy and state-assisted conferences since 1970; 31 years of judicial experience at limited, general, and appellate courts; former Chairman, National Conference of Chief Justices.

and a faculty of over 60 judges, law professors, attorneys, and other professionals.

COMPETENCE BEFORE JUDGEMENT

No American judge-ever-state, county, municipal, territorial, commonwealth, or federal, has ever assumed the bench fully competent to perform all judicial functions. It is the goal of the Academy to work with states to remedy this problem. It is a state problem. It is also a national problem. A national conference will be held in the Spring of 1986 to consider this matter.

Two will be invited from each state, territory, and commonwealth. One (the Chief Justice) will be asked to represent the branch of government most related to this problem—the judiciary. The other will be invited to represent the group the judiciary serves—the public.

Support for projects relating to this conference has been received from Ford Motor Company, Handy and Herman, Ingersoll-Rand, Insilco, IBM, Mobil, U.S. Steel, Whirlpool, and the National Endowment for the Humanities.

The issue to be addressed is whether or not judges, through the use of public funds, should be trained for competence before judgement.

WHAT IF:
A PUBLIC REFERENDUM

WHEREAS

—millions of dollars of public funds are spent each year for the education and training of judges
—this education and training are deemed to be important by those who allocate public funds for this purpose
—judges deal with the liberty, property, and, in some cases, the lives of citizens

THEREFORE, be it resolved that judges should be educated and trained to be fully competent before they begin dealing with liberty, property, and life.

FOR THE AFFIRMATIVE	FOR THE NEGATIVE

Enclosure 11

The Competing Applications

The references in parenthesis are to the paragraph numbers in our Master Plan, (e.g., MP 1.0).

1. NJC: "To establish a state Judicial Education Services Program." AAJE: To establish an "Office of Judicial Education and Staff Support."

2. NJC: Form a "Long Range Planning Group." AAJE: Develop a "Master Plan for State Judicial Competence Through Education and Training."

3. NJC: Determine "complementary state and national programs." AAJE: Through MP 5.1 and .2, develop "State-National Curricula Interrelationships Guidelines."

4. NJC: "Faculty Development Institute." AAJE: A part of our Master Plan 1.0 Model program on Adult Education Principles and Practice; the Academy conducted a regional model faculty development program in 1979, and advised states of its availability.

5. NJC: "Faculty Data Base." AAJE 1971 brochure proposed a "roster of qualified speakers and discussion leaders" and MP 4.3.

Enclosure 11

6. NJC: "Review state judicial education programs." AAJE 1976 brochure: "The Academy . . . is available to meet with appropriate individuals and/or committees to review all of any of the aspects of a judicial education/training program. This can range from policy makers to specific program details."

7. NJC: "Assist court planning and budgeting staffs." AAJE 1974 brochure: "We will prepare a proposed budget and cost analysis for you based on discussions of your needs", MP 3.3.

8. NJC: "Clearing house of information related to the diverse experience of the state." AAJE 1971 brochure: "Central location for . . . information concerning education services to judges of courts of limited and special jurisdiction", "Judicial Education Data Bank" (re: all court levels), 1976 Academy brochure.

9. NJC: "Suggest evaluation criteria for state judicial education programs." AAJE: MP 2.3, 5.5.

10. NJC: "NJC will offer a series of five regional Faculty Development Institutes to train potential faculty for state education programs." AAJE: In 1979 presented a regional model program on faculty development and offered to provide it to states. The faculty program proposed in our Grant Application will develop it for use by, and in, the states. The NJC concept paper proposal does not

11. NJC: "NJC will . . . consult on possible cooperative programs with NJC." AAJE 1971 brochure: "State Programs for State Judges . . . the Academy will plan and present these programs, if requested to do so."

12. NJC: "NJC . . . will consult on orientation courses." AAJE 1971 brochure: advised states it would assist in developing required orientation programs for new judges before they take the bench. Has assisted 3 states in pre-service program development, others in "orientation" programs.

13. NJC: "Prepare course modules." AAJE: Since 1976 the Academy has made evidence course modules available to the states -- 240 videotaped scenarios, case authorities, answers, judicial writing programs (1978), Model Program on Drinking-Driving Cases (Faculty, Participants' and Administrators' Guides, video tapes, slides -- replicated 42 times, 1983).

14. NJC: "Provide Technical Assistance." AAJE 1971 brochure announcing availability of widest range of Technical Assistance ever offered by a national judicial training organization.

Enclosure 11

Academy firsts among national judicial training organizations:

Concepts

Comprehensive Career Program of Judicial Education and Training

— Pre-Bench to LL.M.

Career Long Program — Judicial Writing

Master Plan for Judicial Education and Training, including:

- -- Model State Pre-Bench and Comprehensive Curriculum and Materials
- -- Model State Continuing Judicial Education Curriculum and Materials
- -- State-National Curricula Interrelations Guidelines

Programs

- -- Judicial Writing
- -- The Humanities and Judging
- -- Public Speaking
- -- Fact Finding and Decision Making
- -- Roles of a Judge
- -- Scholar's Seminar
- -- Philosophy of Law
- -- Non-Attorney Academy
- -- Judicial Scholar's Seminar -- Use of State Constitutions
- -- Constructive and Creative Judicial Change
- -- National Conference on Competence Before Judgement

Services to States

- -- Conference Design, Organization and Administration -- Turn-Key assistance
- -- Turn-Key assistance re All Trial Levels
- -- State Pre-Bench Comprehensive Curriculum and Materials Development
- -- Planning Committee Guidelines

Enclosure 11

Methods/Media

- — Simulation (1970)
- — Simulation, videotaped for replay and critique (1970)
- — Demonstrations — Videotaped (1973)
- — Structured workshops, immediately following lectures, enhancing learning (1970)

Faculty Preparation

- — Required preparation of Lesson Plan (for adequacy and uniformity of presentations — 1982
- — Videotaping live faculty presentations for critique (1972)

Enclosure 12

Memorandum to: Appropriate Parties

From: Douglas Lanford

Re: Academy and State Judicial Education Officer Cooperation

Another aspect of the long-standing continuing activity of the Academy to work with state judicial educators is reflected by its record with respect to activities concerning the national organization of these people -- National Association of State Judicial Educators. A majority of JEOs belong to this organization.

A chronology of this relationship follows:

1. Offered Secretariat and Data Bank Services.

   At the 1977 annual meeting of the National Association of Judicial Educators the Academy Director indicated to the group's President that he desired to bring up to the general membership the idea that the Academy would be pleased to serve as the organization's Secretariat.

   This suggestion also encompassed the idea of establishing a Data Bank which would be repository of information/and or materials about judicial education programs around the country.

2. Regional Judicial Education/Training Meetings.

   In 1978, with funding from the Law Enforcement Assistance Administration, the Academy held meetings in eight regional locations. NASJE was formally invited by the Academy to participate in these meetings. They were held for the purpose of exploring the utility of having Academy-State cooperation in producing these meetings, which would supplement and support in-state activity.

Comment: As a result of these meetings, two regional judicial education/training committees were developed by judicial educators. The Academy wanted to utilize these meetings as a way of having the various regions request projects to be carried out through the Academy and the American University Technical Assistance Project, to the common benefit. A faculty development program was held in the North West.

At the Southeastern meeting a motion was made for American University to provide funding to the Academy to develop a conference organization and administration guide for judicial educators.

Enclosure 12

3. Model Judicial Education/Training Programs.

The Academy has urged the development of nationally-developed programs, for use in the states. The purpose would be for the development of such programs that would be useful to the states with a minimum amendment to have them conform to state law and practice. In this way states could present high quality programs with minimum investment.

The Academy discussed this with the U.S. Department of Transportation. They were receptive to the idea. The Academy urged that the concentration be on in-state presentation under the auspices of judicial educators and that the Association should have members on the Advisory Board. The DOT did not know of the existence of the Association.

4. Cooperative Invitations

The Academy has invited the Association to appoint a member to two of its current Advisory Committees. One pertains to the development of a model pre-service curriculum. The other relates to a recent grant to the Academy from the National Endowment of the Humanities and the appointment of an Advisory Committee for the development of a model program on the Humanities and Judging.

NASJE appointed a representative to the Advisory Comittee on the Conference Competence Before Judgement.

For several years the Academy Director offered proposals to the Association about ways in which mutual interests of the individual judicial educators, the Association and the Academy would be fostered.

American Academy of Judicial Education
Court Improvement Through Education
Organized by the AMERICAN JUDGES ASSOCIATION

Suite 824 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

February 19 1988

Douglas Lanford
Executive Director

Chief Justice
A.W. Barney (ret.)
Associate Director

BOARD OF DIRECTORS

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Samford University
Birmingham, Alabama

Glenn R. Winters
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Honorable Chief Justice Torbert
Supreme Court of Alabama
P.O. Box 218
Montgomery, Alabama 36101

Dear Chief Justice Torbert:

This letter relates to your forthcoming Board meeting at which you will discuss goals for judicial education.

Douglas Lanford, our director, mailed to you a letter dated May 1, 1987, which encouraged you to set goals for SJI and judicial education (see Chief Justice Torbert letter, December 2, 1987, Enclosure 1. This letter will be henceforth referred to as "Chief Justice Torbert Letter"). This letter was not read into record of your Board meeting on May 21, 1987.

Mr. Lanford sent a letter to SJI dated June 16, 1987, which again encouraged goal-setting (Chief Justice Torbert Letter, Enclosure 5). This letter was not read into the record of your next Board meeting.

I wrote to you on August 11, 1987, encouraging SJI to set goals. (Chief Justice Torbert Letter, Enclosure 6) This letter was not read into the record of your next Board meeting.

At your December 5, 1987 Board meeting David Tevlin read into the record letters from the National Judicial College and the National College of Juvenile and Family Law recommending that you establish goals. The Board then engaged in a discussion about establishing goals for SJI. May I ask why these letters were read into the record when similar recommendations made by the Academy prior to several Board meetings were never read into the record?

The establishment of goals for spending public money is an obvious prerequisite to spending public money. This was the reason that we suggested to you in May, 1987, that you establish goals concerning judicial education.

Two phrases which are regularly used in terms discussing SJI award of public money are "cost-effective", and "limited resources." It would seem that public monies could be more cost-effectively awarded in the face of limited resources were they to be awarded in the context of well-defined defined goals.

To emphasize that point Mr. Lanford, in his letter of June 16, 1987, stated "Suspend the deadlines for judicial education grants, develop a comprehensive plan by which grants can be made..." (Chief Justice Torbert Letter, Enclosure 5)

This letter was received prior to your action on concept papers at your meeting of May 20, 21, 1987. Thus the award of any public money could have been delayed until such time as goals were established, had oursuggestion been accepted. Under your current schedule, as stated in your proposed guidelines (January 8, 1988), you will not have goals established for judicial education until such time as you begin awarding monies from Fiscal Year 1989. Goals have not been set for your other areas of interest This means that sixteen million dollars will have been awarded without them having any relationship to specified goals.

For the above reasons, we are again recommending to you that the awards of public monies for judicial education be suspended until such time as SJI's goals have been established and finally approved. Even at this date that would mean that several million dollars could be awarded in light of goals, rather than to the contrary.

Your goals will be substantially influenced by the choice you make concerning the alternatives expressed in your proposed guidelines, dated January 8, 1988. The essence of our attitude on these choices is that the primary goal to be achieved through the spending of public monies for state judicial education should be for the substantial improvement of the in-state, state law programs. This can be best accomplished by developing model curricula and course materials for adaptation by states. Our further thoughts on the proposed Guidelines are as follows.

With respect to other goals, we recommend the following.

1. Adult Education Priciples and Practices.

Each major participant in the process of designing and presenting judicial education programs needs to have the appropriate knowledge and skill about adult education and the various aspects of program planning. There is room for substantial improvement in the current situation. Adult education and program planning programs should be made available to state policy makers, planning committee members, faculty, and judicial education officers.

2. Comprehensive and Specific Program Planning.

With the substantially increased knowledge and skill obtained from the training mentioned in paragraph 1, the next step would be to prepare state long-term comprehensive plans, as well as engage in more productive specific program planning. A training program on these matters would be the next step to take in order to capitalize on the training done under paragraph 1.

3. New Judge Education and Training.

For SJI to award grants totaling millions of dollars for judicial education suggests that it is a benefit to both judges and the public. If it is a benefit, to whom is it most beneficial? The Academy's position has been that the highest priority for funding should be for the education and training of new judges, who are in most need of training, as opposed to the in-service training now substantially funded by SJI. The best way to achieve this is through the development of national model programs of instruction which can be easily and inexpensively adapted to state law and procedure.

Again, I will emphasize that we at the Academy feel that a high priority for SJI money is that it be used to create a good example of federal support of state activities--ie. the development of model programs for adaptation relating to having judges acquire competence in their own state law and procedure. This means that the use of public monies to subsidize attendance at national programs where the essence of instruction is not state specific should become a secondary goal.

4. Changed Role for National Judicial Education Organizations.

As a consequence of this shift to the primary area of need, there should be changed roles for the national judicial education organizations.

There is great value to be derived from judges from various jurisdictions exchanging ideas. This can occur at national programs. However, it is not cost-effective to send a judge to a national program on the same subject he/she has taken under the improved in-state training curriculum.

5. A Summary of Goals.

-Increase the knowledge and skill of key people involved in state judicial education and training with the result of significantly improved in-state training in state law and procedure.

-Facilitate improved planning of state comprehensive plans and specific specific in-state programs.

-Develop for inexpensive and easy state adaptation model programs for the education and training of new judges, on their states' law and procedure, with emphasis on pre-service training.

-Support a study of the needed changed roles of national training organizations.

6. The Primary Procedural Goal.

One of the highest goals of SJIshould be establishing the best process for the dispensation of public monies. This can best be accomplished by the use of an expert, impartial panel to determine awards of public monies. Congress has required the use of such a process in several instances. It is imminently supportable on the basis of principle. It avoids any untoward appearances.

7. Conclusion.

This letter is but a continuation of our effort, commenced by Mr. Lanford's letter to you of May 1, 1987, to contribute to the substantial improvement of state judges' knowledge and skills in state law and procedure, with particular emphasis on them being fully competent for their judicial responsibilities before they begin dealing with matters involving life, liberty and property.

Sincerely yours,

Franklin D. Cleckley
President,
Board of Directors

cc:
Chief Justices
State Court Administrators
Judicial Education Officers
Submitters, Rejected Round 1 Concept Papers
SJI Board
President, National Center for State Courts
David I. Tevlin
Dean, National College of Juvenile and Family Law
Dean, National Judicial College
Senator Joseph R. Biden
Senator Howell T. Heflin
Congressman Robert W. Kastenmeier

American Academy of Judicial Education
Court Improvement Through Education

Suite 824 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

August 17, 1988

Chief Justice Clement C. Torbert, Jr.
Supreme Court of Alabama
P.O. Box 218
Montgomery, Alabama 36101

Dear Chief Justice Torbert:

CHIEF JUSTICE TORBERT STONEWALLS IT.

We have, for over 15 months, patiently pursued the opportunity to have an open, on the record, frank discussion with various bodies in which you have a chief leadership role: the National Conference of Chief Justices, the National Center for State Courts, and SJI, concerning the process by which the State Justice Institute awards public monies. This patient effort was brought to a consummation on August 3, 1988, at the annual conference of the National Conference of Chief Justices. I had come there desiring to speak to the members of the conference. You advised me that I could not do so. Any reasonable interpretation of these facts could cause someone to describe your attitude in this matter in the manner used in the first sentence of this letter.

I must assume that a similar attitude is held by each of the members of the SJI Board: Justice James Duke Cameron, Judge Lawrence H. Cooke, Judge John F. Daffron, Jr., Chief Justice Ralph Erickstad, Judge Janice Gradwohl, Professor Daniel Meador, State's Attorney Sandra O'Conner, Judge Rodney A. Peeples and Larry P. Polansky. I have been in the presence of each of them, at each of your open meetings, they have received our various communications, since May, 1987, and not a one of them has expressed an interest in discussing the many points that we have raised. In particular, they have declined to discuss our continuing recommendation that the public monies that you award should be given away through an impartial, expert panel process.

Having attempted for over 15 months to discuss these matters with you (being in your presence at your open Board meetings for over 60 hours), which you have prevented, we must now turn to other methods of having these matters discussed in an open, on the record, frank manner.

The State Justice Institute could be a substantial benefit, directly, to the states. That is why we submitted a letter supporting the continuation of SJI to the Senate Judiciary Committee when it was considering that matter. It is regrettable that not one single member of the SJI Board has voiced a willingness to discuss in a open meeting our various proposals for improving the award of public monies.

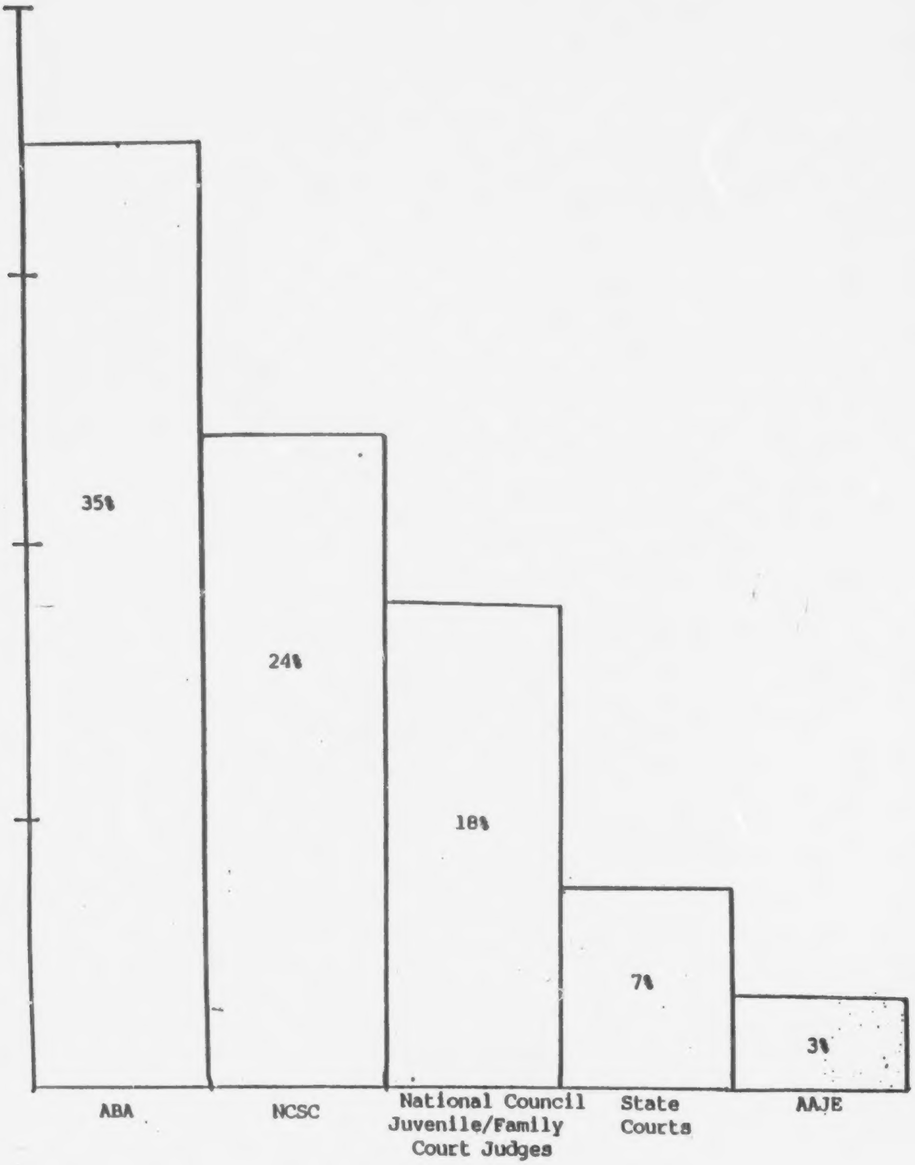
Sincerely yours,

Douglas Lanford
Douglas Lanford
Executive Director

CC: SJI Board members, David I. Tevelin
Enclosures: Chart and Table

DISTRIBUTION OF SJI FUNDS FOR JUDICIAL EDUCATION

(Fiscal Year 1987)



STATE JUSTICE INSTITUTE AWARDS OF PUBLIC MONIES FOR JUDICIAL EDUCATION, FISCAL YEAR 1987

Applicants Seeking Judicial Education Funding	SJI Board Member Relation to Applicant	Funds Awarded For Judicial Education	Percent of Total Judicial Education Funds Awarded	Other Applicants Related to Board Members	Funds Awarded To Other Applicants
National Center For State Courts	*NCSC Board* 1. Current Chair, Chief Justice Torbert, Supreme Court of Alabama	$550,093	24%	—	—
	2. Former Chair, Chief Justice Erickstad, Supreme Court of North Dakota			His Court	$39,400
	3. Former Chair Chief Justice Cooke (ret.)			—	—
American Bar Association	*ABA* 4. Nat'l Judicial College Board Member, Member, ABA Board of Governors, Justice James Duke Cameron, Supreme Court of Arizona	$812,070	35%	Home State Supreme Court	$150,000
	5. Past Chair, ABA Nat'l Conference State Trial Judges, Member-elect, ABA Board of Governors, Judge Rodney Peeples, South Carolina			Home State	$138,625
	6. Past Chair, ABA Nat'l Conf. Special Court Judges, Judge Jan Gradwohl, Nebraska			Home State (Regional Project)	$ 28,873
	7. Past Executive Committee Member, ABA Nat'l Conf. Special Court Judges, Judge John Daffron, Virginia			Home State Supreme Court	$147,710
	8. Former Member, Fundraising Committee Nat'l Judicial College, former law partner Senator Paul Laxalt, who secured over 2 million dollars of Federal funds for NJC and NCJFL, Joseph Brown, Esq., Nevada (Senate Confirmation Pending)			—	—
University Of Virginia/Graduate Program for Judges	9. Director, Graduate Program For Judges, Professor Dan Meador, University of Virginia Law School; Justice Cameron, SJI Board (#4, above), serves on Graduate Program Advisory Bd., appointed by ABA	$ 95,000			
	10. Member, Conf. of State Court Administrators, Larry Polansky, Washington, D.C. 11. States' Attorney, Maryland, Sandra O'Conner				

OF THE TOTAL DOLLAR AMOUNT AWARDED FOR GRANTS RELATING TO JUDICIAL EDUCATION, 63% WENT TO ORGANIZATIONS WITH WHICH SJI BOARD MEMBERS HAVE A RELATIONSHIP.

American Academy of Judicial Education
Court Improvement Through Education

Suite 824 • 2025 Eye Street, N.W. • Washington, D.C. 20006 • 202/775-0083

August 17, 1988

Chief Justice Clement C. Torbert, Jr.
Chairman, State Justice Institute Board
Supreme Court of Alabama
P. O. Box 218
Montgomery, Alabama 36101

Dear Chief Justice Torbert:

This letter relates to your forthcoming August 18-20, 1988, Board meeting, at which time you will award public monies. You and other Board members will act against the following background.

First, we have attempted for over 15 months to discuss with you and Board members in an open, on the record, frank discussion, several fundamental matters relating to SJI's award of public monies. Among the more central issues is the one of whether or not SJI should be required to award grants through an impartial, expert panel process, similar to the requirement Congress imposed on the National Institute of

Mental Health. You have not permitted the Academy to discuss with you its many concerns, initially presented to you in my letter to you of May 1, 1987, to which you have never responded. No member of your Board has asked for such discussion to take place.

Secondly, we brought to your attention while you were the Chairman of the Board of the National Center for State Courts our wish to appear before it to present our view on certain fundamental problems we have with the Center. You prevented this.

Finally, I asked you, in your then capacity as Chairman of the National Conference of Chief Justices, to permit me to speak to the membership about our concerns at its annual meeting, August, 1988. You refused to do so.

Therefore, we will have to adopt other means for having this matter discussed and resolved. We are requesting a hearing before the Senate and House Judiciary Committees and the appropriate Appropriations Committees.

Items relating to this issue are enclosed (Enclosure 1). They indicate the amounts and proportions of your funds certain organizations received. Do these facts create any presumptions?

You have invited grant applications from the following organizations to be submitted for your consideration at your August 18-20, 1988 meeting.

. the Supreme Court of Alabama
. South Carolina
. the Virginia Trial Lawyers Association. It is questionable as to whether or not they qualify for grant monies. During a break at your June, 1988, meeting, when this concept paper was approved, Judge Daffron advised several Board members that the application had been submitted by the Trial Lawyers as a result of a request made by the Chief Justice of Virginia. This application relates to a grant already given to the Supreme Court of Virginia for a project governed by a body on which Judge Daffron serves as a member.

. the National Judicial College. This paper picks up the theme mentioned in an Academy letter to the SJI Board in March, 1988 in connection with an Academy grant they denied.
. the National Center for State Courts. Its "two page letter" was treated as concept paper, even though some members expressed concern about this, and $75,000 was

"set aside" for this project; SJI Guidelines do not permit the "setting aside" of funds.

. the National College of Juvenile and Family Law.

Your Board members' prospective actions must be viewed in the context of prior actions.

At its December, 1987 Board meeting, the members were considering a concept paper submitted by the National Judicial College. It needed someone from the Board to call it up for discussion if it was to be discussed. No one asked for it to be discussed. Later, it was announced that all the papers relating to continuing judicial education had been discussed. I decided to remain for the duration of the Board meeting. At a break Judge Daffron mentioned to Chief Justice Erickstad that "the college needed money." He did not specify support for a particular application or concept paper submitted by the college. Upon reconvening Judge Daffron announced "I have changed my mind, I would like to bring up the college paper for discussion." At the June, 1988 Board meeting Judge Daffron again urged Chief Justice Erickstad, in private, to support applications from the college. This caused Chief Justice Erickstad to ask Justice Cameron, a member of the Board of Directors of the National Judicial College, if it was in need of funds. This is an organization with a million dollar endowment and its annual budget for last year was in multiples of $100,000. In addition, it received over $700,000 of SJI Fiscal Year 1987 funds, and has been invited to submit grant applications for Fiscal Year 1988 funds. Justice Cameron responded that it would not be "critical" if they did not receive all of the money they were requesting. I note that the newest member of your Board will be a former member of a National Judicial College fund raising committee.

In June of 1987 the University of Nevada, which is a partner with the National Judicial College in a graduate degree program, requested funding to award "scholarships" to students. This means that an applicant would be given money for tuition. He or she would then give it to the college, an indirect way of providing a general subsidy to the college. Justice Cameron, a member of the Board of the Judicial College, speaking in support for the award, stated that the program for which the scholarship assistance was sought "was not selling well." At the August, 1987 Board meeting members voted in favor of these scholarship funds and for such funds to the National College of Juvenile and Family Law.

At the June, 1988 meeting invitations were extended to the University of Nevada - National Judicial College and the National College of Juvenile and Family Law to submit grant applications for scholarship funds.

SJI Board members refused the Academy's request for scholarship funds.

At your August, 1987 Board meeting its members refused to act upon our grant application for our judicial writing program. They said that such a proposal had not been a concept paper, therefore they could not accept it as grant application. The incorrectness of this position was documented in my letter to you, dated December 2, 1987, pages 27 and 28. Each of you has a copy of this letter. It was sent to, among others, the members of the National Conference of Chief Justices, court administrators, and judicial education officers. It has been mailed to the members of the House and Senate Judiciary and Appropriations Committees. In the remainder of this letter it will be referred to as "Chief Justice Torbert letter." When you rejected our concept paper for scholarship funds, which you had already awarded to the entities above named, and from which you have invited grant applications for further scholarship funds, you said we could come to your August meeting with a grant application for another type of project, not requested in our concept paper. An inconsistency, to the detriment of the Academy. Why?

The National College of Juvenile and Family Law submitted a concept paper in Round one, at your June, 1987 meeting, to achieve a particular goal. It was totally rejected. But you "set aside" $200,000 in Round one monies for the College. "Set asides" are not permitted by your Guidelines. When you later awarded the "set aside" to the Juvenile College it was for a project that had not been in a concept paper. As above mentioned, you accepted as a concept paper a two-page letter from the National Center for State Courts, contrary to your Guidelines. You not only acted upon it as a concept paper, but you "set aside" $75,000 for the project mentioned in the letter, contrary to your Guidelines.

This is a pattern that clearly indicates that you do what you wish to do and that your decisions can violate your own Guidelines (no "set aside" provisions are included in them). This is another way of saying that if you are desirous of awarding funds you will do so, contrary to your Guidelines or lack of consistent treatment of applicants' papers and applications.

The above facts provide a context for the action you will take on our grant applications at the August 18-20, 1988 meeting.

1. Scholarship Assistance.

We request that you award to us these monies for this purpose. You have done so for University of Nevada-National Judicial College and the National College of Juvenile and Family Law. As well, you have requested them to apply for scholarship funds for the second time. You will act on these applications at the August meeting.

2. Model Evidence Program.

In June of 1987 we submitted a concept paper for updating some of our programs. You invited us to submit a grant application to update two of the requested twelve programs. You requested that we make certain changes in our application. You requested that these changes be made and submitted to you by a certain date. We submitted those changes by the requested date. They still did not meet with your approval. You withdrew the tentatively awarded grant. There was no invitation to meet with the staff to correct those mistakes. Judge Peeples spoke in favor of withdrawing the grant, saying that "we can not set a precedent." Another one of our grant applications that had been tentatively approved had to be revised by the same date certain. On that date the revisions were submitted. The SJI staff still found some problems. We were invited to correct those mistakes and the grant was awarded. Why the difference in treatment?

3. A Judge's Philosophy of Law.

A concept paper was submitted and a grant application was invited to be submitted.

4. Career Judicial Writing Program for Appellate Judges.

We presented a grant application to SJI Board members in August of 1987. The SJI Board members said they would not consider it since it had not come from a concept paper. This is not so (see Chief Justice Torbert letter, pages 27, 28). In June of 1988 the Board members rejected an Academy concept paper for scholarship support. They said come back with a grant application in August of 1988 for a totally different project. Obviously this project could not have been in a concept paper, since you were acting on a concept paper requesting scholarship funds. Chief Justice Torbert and Board members, please explain this inconsistency. At the direction of SJI Board members, we re-submitted the application for action at the March, 1988 Board meeting. The SJI Board members again declined to act on the application. The reasons they gave for not acting on the application are as follows. These were the only comments made in the open meeting. Judge Peeples said that the grant application involved establishing a file for each appellate judge enrolled the program for an "unspecified period of time." True, the grant application stated that the file would be maintained as long as the judge was enrolled in the program. Richard Van Duizind when asked by Board member what defects staff had found in the application replied, "Oh, the usual problems." In this rejection the staff found fault with our proposal to assist appellate judges, throughout their careers, to write better, and directed that, in our third application for funds for this project, we not ask for funds to do this.

I cannot provide to the recipients of the copies of this letter all information that provides an insight as to the reasons for your decisions for awarding, or not, public monies. For example, in the Chief Justice Torbert letter, pages 41, 42, we provided information to you concerning the Government in the Sunshine Act, which requires, under certain circumstances, SJI to conduct its meetings in the open. Since this letter you have changed your procedures for acting in public on the granting of public funds. You now have 3-person sub-committees to meet in order to decide what to recommend to the full Board about its members' decisions. You refused to allow me to attend the meeting of the subcommittee on judicial education. You said that it was closed because the members of the sub-committee were not "deciding for the Board," only deciding to recommend what the Board members should decide.

"All meetings of the (SJI) Board... shall be open and subject to the requirements and provisions of (the Government in the Sunshine Act)." State Justice Institute Act of 1984, Sec. 204(j)

"It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decision-making processes of the [State Justice Institute]." Government in the Sunshine Act Public Law 94-409, Section 2.

This scenario occurred at your June, 1988 Board meeting:

- the sub-committee on judicial education met in private
- the full Board met in public
- the sub-committee chairman stated "we recommend that concept paper X be approved"
- silence
- Chief Justice Torbert called for a vote
- concept paper X was approved

Is there a need for an impartial, expert panel to award public funds?

Sincerely yours,

Douglas Lanford

Douglas Lanford
Executive Director
American Academy of Judicial Education

Enclosure:

CC: State Justice Institute Board and Director
National Conference of Chief Justices
Conference of State Court Administrators
Judicial Education Officers
National Center for State Courts Board and President
Judicial Network Members
Senator Joseph R. Biden, Jr., Chairman, Senate Judiciary Committee
Congressman Peter W. Rodino, Jr., Chairman, House Judiciary Committee
Senator John Stennis, Chairman, Senate Appropriations

Committee

Congressman Jamie Whitten, Chairman, House Appropriations Committee

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August 23, 1988

Chief Justice Clement C. Torbert, Jr.
Chairman, Board of Directors
State Justice Institute
c/o Supreme Court of Alabama
P.O. Box 218
Montgomery, AL 36101

Dear Chief Justice Torbert:

This letter relates to my two letters to you dated August 17, 1988. The first was a one-page letter; the second, a much longer letter, summarized certain of the actions taken by you and the SJI Board.

These letters were hand delivered to SJI offices on the morning of August 19, 1988. The Board was then in session. I understand that it met through the afternoon of August 19 and part of the day on Saturday, August 20.

During that entire period I was available for any discussions that you or Board members wanted to have with me, since our office is in the same metropolitan area within which you were meeting, as is my residence.

I ask if the issues that I raised in either of my August 17 letters or any of the issues raised in any of my correspondence with you and the Board beginning with my letter to you dated May 1, 1987, were discussed by you and the Board members at any time, either during the Board's open meeting of August 18-20, or otherwise.

I will include your response to this letter in the material I will submit to Congress. I will appreciate it if you will mail to me your response no later than August 31, 1988.

Sincerely yours,

Douglas Lanford

Douglas Lanford
Executive Director

D/s

STATE JUSTICE INSTITUTE AWARDS OF PUBLIC MONIES FOR JUDICIAL EDUCATION, FISCAL YEAR 1987

Applicants Seeking Judicial Education Funding	SJI Board Member Relation to Applicant	Funds Awarded For Judicial Education	Percent of Total Judicial Education Funds Awarded	Other Applicants Related to Board Members	Funds Awarded To Other Applicants
National Center For State Courts	*NCSC Board* 1. Current Chair, Chief Justice Torbert, Supreme Court of Alabama	$550,093	24%	—	—
	2. Former Chair, Chief Justice Erickstad, Supreme Court of North Dakota			His Court	$39,400
	3. Former Chair Chief Justice Cooke (ret.)			—	—
American Bar Association	*ABA* 4. Nat'l Judicial College Board Member; Member, ABA Board of Governors, Justice James Duke Cameron, Supreme Court of Arizona	$812,070	35%	Home State Supreme Court	$150,000
	5. Past Chair, ABA Nat'l Conference State Trial Judges; Member-elect, ABA Board of Governors, Judge Rodney Peeples, South Carolina			Home State	$138,625
	6. Past Chair, ABA Nat'l Conf. Special Court Judges, Judge Jan Gradwohl, Nebraska			Home State (Regional Project)	$ 28,873
	7. Past Executive Committee Member, ABA Nat'l Conf. Special Court Judges, Judge John Daffron, Virginia			Home State Supreme Court	$147,710
	8. Former Member, Fundraising Committee Nat'l Judicial College; former law partner Senator Paul Laxalt, who secured over 2 million dollars of Federal funds for NJC and NCJFL, Joseph Brown, Esq., Nevada (Senate Confirmation Pending)			—	—
University Of Virginia/Graduate Program for Judges	9. Director, Graduate Program For Judges, Professor Dan Meador, University of Virginia Law School; Justice Cameron, SJI Board (#4, above), serves on Graduate Program Advisory Bd., appointed by ABA	$ 95,000			
	10. Member, Conf. of State Court Administrators, Larry Polansky, Washington, D.C. 11. States' Attorney, Maryland, Sandra O'Connor				

OF THE TOTAL DOLLAR AMOUNT AWARDED FOR GRANTS RELATING TO JUDICIAL EDUCATION, 63% WENT TO ORGANIZATIONS WITH WHICH SJI BOARD MEMBERS HAVE A RELATIONSHIP.

Senator **Heflin**. Next, we have a very distinguished panel of law enforcement officials, Tom Sorrells, Assistant Attorney General, Office of the Attorney General, in Alabama; Mr. Kater Williams, Police Chief of the Dothan Police Department, of Dothan, Alabama; the Hon. Tom Purvis, Sheriff of Mobile County, Mobile, Alabama; and Mr. Tim Byrd, Police Chief of Enterprise Police Department.

We would appreciate it if you gentlemen would come forward. We are delighted to have you. I happen to know of your activities and work and reputations in the field of law enforcement and I can say that each of you have been invited because of your outstanding records in law enforcement, your innovative thinking as to approaches, your interest particularly in the drug field. We are delighted to have you.

Mr. Sorrells was the District Attorney for a number of years in the Circuit Court of Houston County, and maybe add Henry, too.

Mr. **Sorrells**. Yes, sir, Houston and Henry.

Senator **Heflin**. Houston and Henry Counties. So we are delighted, Mr. Sorrells, if you would start.

A PANEL CONSISTING OF TOM SORRELLS, ASSISTANT ATTORNEY GENERAL, OFFICE OF THE ATTORNEY GENERAL, MONTGOMERY, AL; KATER W. WILLIAMS, POLICE CHIEF, DOTHAN POLICE DEPARTMENT, DOTHAN, AL; TOM PURVIS, SHERIFF, MOBILE COUNTY, AL; AND TIM BYRD, POLICE CHIEF, ENTERPRISE POLICE DEPARTMENT, ENTERPRISE, AL

Mr. **Sorrells**. Thank you. I appreciate it, Mr. Chairman. I appear today, I think, as a working prosecutor that can tell you how needed this help is in this bill on the local level. I do not think you can realize what the omnibus bill of 1968 meant to those who used it properly, and I think we have learned a lot from that bill.

In the Attorney General's office, we have just received a grant under the last omnibus bill where we have prosecutors go around the state to aid with the drug problem. We have recently had one of our staff members, an attorney, train himself with the Federal U.S. Attorney in Mobile, Mr. Jeff Sessions, to confiscate and to learn about confiscating property of dope dealers.

As a working District Attorney, I have rape cases, murder cases, robbery cases to take care of, in spite of all the drug cases I have also. It took a lot of time to get expertise in the field of confiscation and taking the profits from drug dealers, and there is very little time for a District Attorney to do that.

We are very pleased that in the last year, working with the U.S. Attorney in Mobile in a partnership with the Federal Government, we have been able to confiscate several homes and several amounts of property in excess of $400,000.

We also have been pleased to note that the legislature of our State has also passed a strong forfeiture and confiscation bill just last week in the legislature.

Without these Federal funds, we could not do this. As a working prosecutor, I know that you can make all the cases in the world, but if you do not convict them then you do not have anything there. District Attorneys are overburdened around the State of Alabama and other States of like nature, and I have had the privilege of serving on the board of the National District Attorneys Association, and I see they have the same problems all over this Nation.

We have been able to aid these district attorneys in counties such as you are familiar with, Baldwin County, which has a large coastline and a large drug problem, and in several counties around the State, to help them to deal with their drug problem.

I think we do have a war with drugs. We have got to consider it a war with drugs. I do not think it is the place for the faint-hearted. I am disturbed by people who say we are not making any dent, we cannot make any dent. It sounds like a fifth column to me. I think if I was a dope dealer, I would love to hear that kind of language.

I think we have got to put all our expertise and all our knowledge and any resources we have, Federal and State, in a partnership, and I would rather be killed for a sheep than a lamb. I would rather say I am going to go after these people with all our expertise and all our resources and do everything we can.

I know we have got to deal with education, with trying to prevent young people from getting involved in drugs, I think we have got to change attitudes, but we have also got to say we cannot let the drug dealer go unnoticed or we cannot legalize drugs. We have got to get all the power of the Federal and the State.

As Chief Justice Torbert was saying, I do not believe the people in Federal positions realize how much the State courts, State law enforcement and State prosecutors deal with problems that the Federal Government would have to take care of if they were not there.

I appreciate this opportunity to be here. I say we have done great things with the help of the Federal Government. We are involved right now in major prosecutions in conjunction with the Federal Government, and the source of information and intelligence of the Federal drug authorities come mainly from State authorities in many cases, and we urge the passage of this bill and we urge this partnership between the Federal and the State government.

Thank you.

Senator HEFLIN. Senator Specter has joined us. Do you have any opening statement or anything you would like to make?

Senator SPECTER. I do not have an opening statement, but I do have a question or two that I would like to ask, if I may, Mr. Chairman.

Senator HEFLIN. Senator Specter is a former District Attorney in Philadelphia and has a background in regards to this. Mr. Sorrells is a former District Attorney in Houston and Henry County in Alabama and now is the Assistant Attorney General of the State. He is the only one who has testified so far, and if you would like to ask him some questions now or——

Senator SPECTER. Thank you, Mr. Chairman. I see the very distinguished panel are present today, with somewhat heavy Alabama representation.

Senator HEFLIN. Well, we thought we had the outstanding thinkers on this problem.

Senator SPECTER. That immediately comes to mind in selecting four outstanding experts and I can understand why all four would come from Alabama.

The question that I would like to ask you, Mr. Sorells—and I want to compliment my colleague, Senator Heflin, for his leadership in this area. He and I worked on many subjects together because we have very similar interests in many fields on the Judiciary Committee.

I have long been interested in the enforcement aspect of action against career criminals that impacts very heavily in the drug field and law enforcement generally and have been part of the measure to get the Federal armed career criminal statute on the books which provides for mandatory 15-year to life sentences for anybody who is found in possession of a firearm who has been convicted of three or more major crimes in the past, and I had originally worked on this idea to try to give leverage to help local prosecutors and district attorneys, so that if that sort of very heavy punishment was present in the Federal court, it might induce career criminals to enter guilty pleas and clear up the dockets and avoid judge-shopping, continuances and the terrible problems that I faced when I was District Attorney in Philadelphia.

When I was DA, I tried to use the State habitual offender statute, which provided for a life sentence where there were four convictions under Pennsylvania law. My understanding is that about 40 States have such habitual offender statutes at the present time.

Last month, when we had the budget hearings, I pit on an amendment which would transfer, which would utilize $100 million a year for each of 5 years for the construction of jails, to be paid for by the Federal Government, which would house habitual offenders sentenced under State habitual offender statutes, to take them out of the State cause, to give incentives for State prosecutors to proceed under the habitual offender statutes, and State court judges to sentence to life imprisonment on the proposition that these habitual offenders really operate in interstate commerce significantly in the drug field, and would be a good way to provide 16,000 jail cells in this country as an experiment to see what the States would do by way of responding.

When I tried to get habitual offenders sentenced to life in Philadelphia, I got nowhere. I could not really even get a maximum sentence if I had a habitual offender and would indict him for robbery, for example, and make the allegations under the habitual offender statute, I couldn't even get the maximum sentence of 20 years, let alone the life sentence. And my question to you is, do you think it is realistic to try to use such an incentive for State courts to sentence under habitual offender statutes if the Federal Government would provide the prisons to hold these people?

Mr. **Sorrells.** Yes, sir, I do, Senator. I think in fact it is vital. With some background, Alabama has such an habitual offender statute and in the last term of the legislature, the Attorney General sponsored legislation to apply that to drug offenders. A third-time offense, three prior felonies and the conviction of trafficking in drugs in Alabama now carries life without parole.

Alabama also, in a case that I had the misfortune to handle myself many years ago, Newman v. Alabama, which said that we are overcrowded, we have a prison monitoring committee set up by the Federal court and they are now putting pressure to release many of these people because of the overcrowded situation.

What you are saying is that the habitual offender can work. Chief Williams and I worked together in major felonies, and Chief Williams can tell you, I became District Attorney in that county in 1972 and we had 28 homicides that year. We averaged 28 homicides in those years. We are not talking—and the Chief can back me up on this—by the time I left office, we averaged about two or three, were we not, Chief? And I directly represented habitual offenders.

Senator SPECTER. You only had two or three homicides?

Mr. SORRELLS. Two or three homicides a year in that jurisdiction, and I think because of this, I think you need to know this, many juries let folks go when the person who got killed in a barroom fight somewhere in the wrong section of town was the habitual offender, no discretion. That person's life was just as important as someone else's life.

The point is, as you know as a district attorney, the frustration is that the theory is wonderful but the execution is pretty bad when you don't have the jail space, the penitentiary space. Everyone says you cannot do it, we wish we could do it, but there is no place to put them.

Senator SPECTER. Your habitual offender statute provides for life imprisonment after the third offense or the fourth offense?

Mr. SORRELLS. Yes, sir, our general habitual offender says on violent crimes, three prior felonies, the fourth is life without parole, which we call a Class A felony. Now in our drug statute, the habitual offender applies since last year, and in trafficking cases we are talking about, if you have a trafficking case, you have three prior felonies of any kind, the only sentence is life without parole.

Senator SPECTER. Prior to the last year, the drug trafficking did not trigger the habitual offender statute?

Mr. SORRELLS. Our courts ruled that we had a parallel scheme for habitual offender in drug cases. The drug case scheme was a discretionary scheme with the court. We had been applying the regular habitual offender, but our Supreme Court overruled that, saying there is a parallel scheme. In the last legislature, we had a new scheme making trafficking a Class A felony, therefore triggering the life without parole, but the whole system fails if you do not have the jail space. I think that your proposal is an excellent proposal and is the kind of thing we need.

I am not for locking everyone up and throwing the key away, but we must realize that there are certain people we must put behind bars and that we cannot—we already have 25,000 to 30,000 people in Alabama, convicted felons, in community corrections. That means that the section that is left over really ought to be behind bars, and if we do not have the space and we are releasing people who ought to be in prison, I think your proposal is excellent.

Senator SPECTER. Is your State building more prisons?

Mr. SORRELLS. Yes, they are. We have just finished completing two new prisons and, due to the prison oversight committee, we have had an increase in paroles and our prison population has dropped for the first time in the last 2 months, but we are building more prisons.

Now, I advocate building different kinds of prisons. I think we ought to put the violent offenders in the secure prisons, and we ought to build more medium or minimal secure prisons for non-violent offenders, instead of releasing these non-violent offenders who are habitual criminals. But we have been building pretty large prisons. We have built four or five new prisons in the last 10 or 15 years.

Senator **Specter**. Mr. Sorrells, do you concur with my sense that many judges do not sentence jail where they would like to if there was adequate prison space, and the parole authorities are releasing in advance of the time they would like to because of the shortage of prison space?

Mr. **Sorrells**. Yes, sir, they are under the gun, and that makes that whole criminal justice system fall down. It is like I told my child, you quit doing this or else and he says to me "or else what." I have people who plead guilty to the 60-year sentence because they know they will never serve it.

Senator **Specter**. What did you tell your child? I want some real advice. [Laughter.]

Mr. **Sorrells**. Well, I do not do too good with him, but he will not pay any attention to what I say unless I enforce what I say.

Prisoners are smarter than we are, they know a 60-year sentence means two or three years out on parole, they know good time laws, they know those kinds of things. If we are going to say to them 2 years, 5 years, 10 years, they need to believe it or we do not deter crime with that. If we say our laws are going to deter crime, if we enforce them as they are on the books, they may deter crime, we do not know, we have never really tried it yet.

Senator **Specter**. Thank you very much. Thank you, Mr. Chairman.

Senator **Heflin**. You might explain, Mr. Sorrells, a little bit, that at one time in our State the prisons were so overcrowded that the county jails had to keep the prisoners, and this presented a real problem with prosecutors and judges relative to punishment and to sentences, because the responsibility of it was based on the county and the city. I think the situation has improved substantially.

Mr. **Sorrells**. It is beginning to back up again, Senator. But you are right, it had improved. And, Senator Specter, as you say, I have heard convicts say to me, you cannot give me much time or they cannot keep me because they have no place to put me, and they are backed up in the county jails somewhat now and that pressure is on the courts, the parole boards, the prosecutors. Prosecutors I think would not like to plea bargain, they would not like to give lower sentences. I think that the aspect of where to put them should not figure in a prosecutor's judgment when he is talking about sentence negotiation, and that is the reality of it.

I think what your are proposing is the thing to do, because we are talking about the Federal Government's best interests in having the State take care of these cases and also having efficient, well-run jails would cut down the amount of these habeas corpus petitions we have in these 1983 suits we are talking about and this crisis situation we have.

Alabama at one time was in the worst situation of anyone. Our suit was a landmark suit, but now we have improved and the leadership of Judge Heflin I think had a lot to do with that in that system, but we are always going to have that problem unless we have some help and we have some leadership to say we do not have to sit back and allow these prisoners to dictate to us what sentences they get.

If I am a person who is a defendant in a case, I am not going to be deterred by the law when I know I am in control.

Senator HEFLIN. Senator Specter, I do not know whether you were in the Senate at the time, about the time the LEAA law was coming to an end, which I think the termination was a serious mistake. I was a strong supporter of LEAA. Senator Dole and I introduced a bill and got some support for a prison construction bill, which was based on a Federal contribution of a substantial amount with something like 70 percent Federal funds and 30 percent State matching funds on prisons as a whole.

Now, your bill addressed—we did not get it passed, as you probably know, with the difficulty of money, but your bill is directed towards habitual offenders, which is great, but my observation has been that it is extremely difficult to get State legislators to address the issue of prisons and the competing factors and competing programs, and I am not real sure that at some time in the future, if we are going to really address the problem of drugs and crime, that there has to be a Federal and State partnership relative to the construction of prisons. Maybe yours is a foot in the door and we can go forward with it, but there is a tremendous need we have got with situations now with the death penalty situation as it now is and the increase in crime and the increase in drugs particularly, the housing of prisoners is a serious problem.

Senator SPECTER. I agree with you, Senator Heflin, and I——

Senator HEFLIN. Maybe you and I ought to work together to see if we can start it. I like your idea and I do not want to mess up your idea or anything like that, but it may well be the foot in the door.

Senator SPECTER. I think it is. I believe that the Federal Government has a broad responsibility to help on the housing, because these criminals are in interstate commerce and they are significantly drug pushers. I have been pushing the prison issue for some time, and in the budget resolution in about 1983 I put one up for $100 million and got 16 votes, which is a pretty small turnout, and I tried the next year and got about twice as many votes. But given the deficit, you and I know the problems we have of getting through anything in our budget, and the States in more recent years have had surpluses, but that doesn't affect the basic proposition. I agree with you that there ought to be a Federal-State partnership.

Now, I have addressed the habitual criminal because I think that provides another level of inducement. When we say to our colleagues, there are all these career criminals out there, that is a special category, we talk to our colleagues about the prison system generally, they agree that, yes, it is serious, but we have other considerations. But if we say let us get the States to use their habitual offender statutes, which they are now not using, by putting the carrot out there, that if they will convict under those statutes, that we will house them, then I think you would find State prosecutors and State court judges saying yes, well, if we are going to get Uncle Sam to help us out here, we will make that effort. And then once we get our foot in the door through the habitual offender statute and really take on a greater Federal responsibility because it is a national interstate problem, then I think we go back to the idea that you and Senator Dole and I have been working on for so many years.

Senator HEFLIN. Chief Williams, we are delighted to have you here with us, and we would like to hear from you now.

Mr. WILLIAMS. Thank you, Mr. Chairman.

I would like to inform your colleague that my wife of about 33 years is from Hershey.

Mr. Chairman, I appreciate this opportunity to express my feelings and beliefs, as well as those of people of Southeast Alabama. I reside in a community of 50,000 people, located within 10 miles of Florida. Our community is presently in the state of transition. Traditionally, the "wiregrass" area has been agricultural and is now developing as a metropolitan area, but it is not this transition that I am here to express our concern about.

Just a decade ago, drugs were things we heard about only on the evening news. All the contiguous problems associated with this enterprise were problems found in the larger cities and the possibility of these problems spreading to areas such as ours were of the most remote possibility. This is no longer so.

Today in our community, arrests of individuals who have immigrated from countries such as Haiti, Colombia, Jamaica, as well as of local distinction are becoming commonplace, and what just 10 years ago seemed impossible is real and flourishing. Illicit drugs have arrived and are rapidly becoming the most taxing of all criminal behavior on our somewhat limited resources.

Although the reasons for the expansion of the illicit drug trade to communities such as ours may be speculative, it is felt by myself and others that successful interdiction programs in larger metropolitan areas as well as the seeking of new markets is forcing the expansion into areas such as ours, and combative measures with your assistance are now a necessity.

We feel a solid and continuing local based program is the weapon needed to develop the correct and effective countermeasures needed to combat illicit drug trafficking in our community.

We further believe, with proper funding levels and assured continuance of this funding, a comprehensive two-faceted attack directed towards detection and apprehension and the prosecution of offenders and, secondly, a comprehensive education program to effectively educate the young to the perils of drugs will reduce the demand for such and conjunctively bring about a successful resolve of this matter.

Thank you.

Senator HEFLIN. Thank you. Rather than asking questions, I am going to go ahead with Sheriff Purvis and then Chief Byrd, and then we will have some questions of all of you.

Sheriff, go ahead.

Mr. PURVIS. Senator, if I may, I would like to add one thing to what Senator Specter was proposing, that as a jail administrator, as sheriffs are in Alabama, I would urge that the Senator look at this from an administration standpoint as well, not just construction, but the cost of operation.

Senator, I have been in law enforcement since February of 1963. My first assignment with the Mobile Police Department was as a vice and narcotics officer. The present Chief of Dothan, Alabama, my good friend, Kater Williams, was a sergeant then and I was assigned to work the same detail with him. There were just three of us then and I think we were the only three narcotics officers in all of Mobile County. We had one lieutenant, Sgt. Williams and myself.

I worked with Sgt. Williams for about a year on that detail and a total of about 3 years on the detail, and we were vice and narcotics and in those days we made more vice cases than we did narcotics cases. We did not receive any assistance from outside the department and very little from within. There were no Federal agents working narcotics at that time in Mobile County, nor was there any interest at the State level.

Over the years, I have seen that effort from a three and sometimes a two-person operation to where we are today, with approximately 25 local people working full-time and many that work part-time, and additionally Federal and State agencies that are now involved in that effort. Between the Federal and State, they probably work as many people as we do in that area.

In the late sixties, we saw the passage of the Safe Streets Act by Congress and, of course, we all thought that was the greatest thing since sliced bread. The money did some good but it also did some not so good. Some of the programs that were funded were worthwhile, but many of them were not and a lot of money was wasted. Not many of the programs that were started under that program are in existence today.

Much of the money that was appropriated by Congress was spent getting the money to the street. I do not know what percentage was spent thusly, but I would be interested in knowing.

For many years, Congress appropriated what was commonly called revenue sharing. As I understood the intent of Congress, that money was to be used primarily for capital expenditures. I do not know how everyone else spent it, but in Mobile County it was used for everything, including payroll. We thought it would be with us forever and it hurt when it was cut out of the budget. I am not making an argument for this type of funding, but rather the opposite. We do not need that kind of fix.

We do not need a program that is difficult to live without when it is gone. We do not need one that has guidelines that cause people to dream up idiot schemes on how to spend the money. We do not need one that spends more money in the pipeline than it does on the street where it is needed.

If it is the intent of Congress to once again fund local law enforcement programs, then I think it should be done in a manner that will have the greatest effect at the least cost, and it should be kept simple.

Many local law enforcement agencies have good programs that are in place and underfunded or they are on hold for lack of funds. Do not make us dream up new ones just so we can qualify for the money. We are not going to win the war on street sales of drugs in 1 year, so please do not limit our programs to one year's funding as in the case of LEAA. Please do not make us compete with the need for garbage trucks and motor graders, as it was with revenue sharing.

Senator, if we are to professionally and effectively address crime in this country, we have to commit to a cooperative effort. There must be cooperation between the affected agencies and between the various levels of government. By this, I mean between law enforcement agencies, between those agencies and the courts and prosecutors, between them and the prison system, and so on.

At the present time, we pay lip-service to cooperation, but it does not exist. All too often we pull against each other and operate at cross-purposes. We rarely take into account the effect that our actions will have on another agency. During the LEAA funding years, courts and law enforcement competed for the same money. We do not need any more of that.

Senator, we need help, not someone from the government saying they are here to help us. I do not think that you are going to find us eager to get on board Federal programs as we were in the past. There is no doubt that Congress can pass legislation that will aid in addressing our national drug problem and crime in general. As far as I am concerned, Congress will have to plan with us, not for us.

In closing, I would like to make one last point. There is an international drug conspiracy and it cannot be defeated at the local level of government. The solution to our drug problem is multi-faceted. It includes education and prevention, treatment for those who cannot afford it as well as for those who can, law enforcement and punishment. The solution to the international drug conspiracy is interdiction and international diplomacy. When and if the Federal Government declares war on the drug conspiracy, we will know it. One definition of interdiction is "to destroy, cut or damage enemy supply lines by firepower." Senator, according to that definition, our Federal Government has not begun to fight.

On the way up, Senator, Chief Williams, who serves on one of our State granting authorities, informed me that he had just approved a grant for us, for my agency out of Federal funding and I do not wish my remarks to appear ungrateful. They are not. What I am saying is that what we have been doing in the past does not work and we need to take a hard look at what we are going to do in the future before we act.

I appreciate very much the opportunity to appear before you today, sir. It is always a pleasure to be with you.

Senator HEFLIN. Thank you, Sheriff Purvis.

[Prepared statement follows:]

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SHERIFF

Tom Purvis

MOBILE COUNTY • MOBILE, ALABAMA
36601-0113

Senator, I have been in law enforcement since Feb. 1963. My first assignment with the Mobile Police Department was as a vice and narcotics officer. The present Chief of Dothan, Al. Police was a sargeant assigned to the same detail. In fact there were three of us. For all of Mobile County. One lieutenant, one sargeant, and one rookie.

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Thank you for the opportunity to appear and express my views on this matter.

Senator HEFLIN. We are pleased to have Chief of Police Tim Byrd, of Enterprise.

Mr. BYRD. Thank you, Senator Heflin, for allowing me the chance to express my views on the need for Federal cooperation and support in the war on drugs and crime on the local level.

Enterprise, Alabama, is a small town of some 21,000 people, located in Coffee County, near the southeast corner of Alabama. We are only 20 miles from the Florida border and some 70 miles from the Gulf Coast.

You might think that our town would be an idyllic place to live, where citizens are not afraid to walk the streets at night or to leave their homes unlocked. That might once have been the case, but sadly it is not so now.

Our citizens are under siege—by drug pushers, drug users, burglars, thieves and robbers. And the worst part of it all is that these widely varied crimes are often committed by one and the same, the drug abusers who wander the streets.

During the past four months, our police force of only 34 sworn officers have seized over 577 grams of cocaine, crack and powder form, and 6,002 grams of marijuana. The street value of these drugs is in excess of $85,000.

I have no exact figures, but from local intelligence and admissions by suspects themselves, I would estimate that 50 to 75 percent of our violent crime and crimes against property can be traced back to the criminal's dependence on illicit drugs, crack and cocaine in particular.

Our close proximity to Florida and the ready availability in that State of all kinds of drugs, in quantities from a few grams to thousands of pounds, compounds our drug problem.

Consider this a plea for help. What we need is continued funding in grant form over an extended period of time for personnel, equipment and buy money in our war on drugs. The Federal Government has declared war on drugs, but the money and manpower has been slow in filtering down to the front lines, which is what we the local departments are in essence.

In past years, these Federal dollars have been slow in coming and too short-term to be effective. In fact, to some agencies, the tenuous nature of the grants and the expense of paperwork compliance outweigh the benefits they might offer.

We need a stable Federal funding base for our efforts to be successful in the long term. Each of you are aware that funds once received by local governments in the form of revenue sharing have now evaporated. This has indeed dealt a detrimental blow to our drug enforcement efforts.

I would urge the Federal Government to continue its strategies for cutting drugs off at their source countries and preventing the importation of drugs through our borders. But any Federal drug agent will tell you that most smugglers make it through the net with their destructive cargo.

Law enforcement personnel at all levels are beginning to realize that we will never be able to solve the drug problem by interdiction alone. The drug flow just cannot be stopped. The most effective way to curb the flow is to curtail the demand. This can be accomplished to some degree through education, but there will always be those outside the mainstream of society who choose to use drugs no matter what warnings or societal pressures against it.

We must move decisively against the users and the smalltime pushers now and make them pay dearly for their drug involvement, for it is these same people who must steal and rob to finance their addiction. This is where Federal dollars and cooperation is most needed.

A continuing grant program for drug enforcement is the first step. Secondly, we need cooperation from the military and the use of its assets at the State and local level. Again, I would like to remind that we, the small departments in America are the front lines in the war on drugs.

Thank you again for allowing me this time.

Senator HEFLIN. Thank you. I think you have given some excellent testimony.

Sheriff Purvis, I think you really hit the nail on the head when you said that the solution to the international drug conspiracy is interdiction and international diplomacy. To substantiate that, can you give us a ball park estimate of what you think the percentage of illicit drugs that are in this country which come in from other countries and from outside sources of the United States?

Mr. PURVIS. Senator, if we are talking about drugs generally, the great percentage of the drugs that are consumed that do not have a legal manufacture or source such as the things that are prescribed by doctors, then we are talking about heroin, cocaine, and the derivatives of those, the morphine derivatives and the things that are made from cocaine, and of course a great percentage of the marijuana that is consumed in this country comes in from across our borders.

Now, there is a large domestic industry of marijuana that is being grown in this country, but I think that at least in the southern United States we have had a positive impact on the amount that actually reaches the streets.

Senator HEFLIN. Well, with the exclusion of domestic growing of marijuana and the processing and use of it, are illicit drugs such as heroin, cocaine, and crack coming in from a foreign source?

Mr. PURVIS. Yes, sir.

Senator HEFLIN. Well, you have hit—which I think sometimes we here in Congress do not realize, and when you used the language of interdiction and international diplomacy, I have always been opposed to the Panama Canal Treaty and still think it was a mistake, but that is not the issue I wanted to get to.

I and my staff went back and looked at some of the debates on the Panama Canal Treaty and looked at the testimony of Senator Jim Allen on the Senate floor as well as some other Senators relative to it, and to our amazement, in 1978 they were identifying a man named Noriega in Panama, 10 years ago, as being involved in international drug trafficking, and to a great extent his name was mentioned frequently. He was then a friend of the head of the Panamanian government.

Now, here we are 10 years later, where finally we see an indictment that comes up against Noriega, and that is just an illustration. My question is, have we not been able to identify which countries the drugs are coming from? From your work in the law enforcement field have you been able to identify where the drugs come from?

Mr. PURVIS. Senator, there are absolutely no secrets in this international drug trade as far as source is concerned and quite often who the major actors are in the other countries. It is well known that the military in Thailand is involved in the exporting of heroin from that country. It is well known that the governmental officials in Mexico and Guatemala and Honduras and Bolivia and Peru and Colombia, and of course Panama, are all involved, as well just recently we learned in Haiti, that these people are involved in the exporting of illicit drugs, specifically heroin and cocaine, from their respective countries.

Senator HEFLIN. There is a problem that all of you deal with. One of the reasons you deal with this particular problem is because of the geographical location of Alabama, that being close to the Florida border, and close to the Gulf of Mexico. We hear a lot about problems, designated by some law enforcement officials as the Mobile Corridor, which came about as a result of real concentrated efforts by the Drug Enforcement Administration in and around Miami. As a result of the location of that area, which we are told is an area that lies in the panhandle of Florida, south Alabama, in Mississippi, New Orleans, and in Texas, that there are a great number of small airplanes, maybe even some big airplanes, which fly late at night, land somewhere inland 100 to 150 miles, some perhaps in your particular area, at some rural airport where there is probably no lights or anything else, but they are equipped with their lights on the plane. These planes are met there by vehicles and they will unload and it is extremely difficult to know or anything else.

Now, is this a real problem in your judgment? I know you, Tom, as a District Attorney, and I know that Chief Williams, Chief Byrd, and Sheriff Purvis are in areas that would be affected by this. Are you of the posture that this is a way which drugs are coming into this country?

Mr. WILLIAMS. I think it is evident, Mr. Chairman, when in Dothan, Alabama, four years ago we seized an aircraft with over 700 pounds of cocaine from Colombia. We see it——

Senator HEFLIN. From Colombia?

Mr. WILLIAMS. Yes.

Senator HEFLIN. Where did you seize it? What was the incident?

Mr. WILLIAMS. Dothan-Houston Airport, the plane, a twin engine modified plane, with extra gas tanks, even to a 55 gallon drum with a pump on it for fuel, it was seized again at Dothan-Houston County Airport.

Senator HEFLIN. Well, that is not exactly rural, but they can still come in.

Mr. WILLIAMS. No.

Senator HEFLIN. That does not mean they cannot come into a larger airport.

Mr. WILLIAMS. It was due to come in across the river in Georgia, but it was foggy that night and they had to come in to Dothan, because he was actually out of gas when he landed. But you can also see the number of seizures in western Alabama, southwest Alabama, small towns such as Demopolis, such towns as Marion, where they actually engaged in a gun battle with the police chief there at a rural airport. It is a corridor, as you have indicated. It is a tremendous problem to us.

There are loads as far north as Tennessee and Kentucky which in turn is carried back to Florida by vehicles because of the law enforcement activities in Florida. I am not criticizing that activity, it is good, but that is what I related to. They have so many drugs there that the competition, either the enforcement there is driving them into our area.

Mr. SORRELLS. Senator, let me say this, too. Demopolis Airport, for instance, I have flown into there at night and there is no one there and that landing field is well-lit. In addition, I am sure other States have the same problem, we have thousands of air strips that were built during World War II to train fighter pilots that are sitting there unattended and they are just places that any drug dealer would love to come into. It means that there are over 2,000 or 3,000 potential locations in southeast Alabama alone that a dope dealer could come into in a small rural area, with maybe one deputy sheriffs office or a one-man police department, and they can truck it back to Miami or distribution centers, plus you have the confluence of 65 coming south and I-10 going east and west, and they bring it to the panhandle of Florida and they have a ready spot just right there, north and south, east or west, they could not ask for a better place, a more secluded spot or less chance of being taken in. So we think it is a real problem, and to have Federal aid to help survey these places, we think we can cut down on this importation if we have some resources to deal with it.

Mr. PURVIS. Senator, if I may, let me draw a parallel. I wrote to you some time back about the FAA's position on encoding transponders in airplanes and you pointed out very knowledgeably in your reply to me, you certainly indicated that you know how the system works. Air traffic controllers tune out airplanes that are squawking BFR, the airplanes that are not squawking a transponder, and in doing so—there is a myth in this country and I am sure it is shared by members in the government and people in the Congress and, of course, the general public, that we have this tremendous radar net around the country that sees everything that is in the sky and you and I know that is just not the case. We do not see everything that is in the sky. I can fly along many places in this country and I do not have to do it at 100 feet, I can do it at 5,000 feet and nobody will see me on radar and, if they do they do not pay any attention anyway.

The Mexico-Texas border is a good example. I have flown across that border myself at McAllen, there is no radar there. If I had not told the Customs and Immigration people that I had been in Mexico, they would never have known. There are many places in this country where it is possible for a small plane, any plane, you could do it in a 747, that can fly across the border and land undetected.

Senator HEFLIN. I had a talk with Major General Ellis Parker, Chief Byrd, and also with the Commandant of the Coast Guard in New Orleans. In that meeting I endeavored to see that they might work together to try to solve some of these problems. As a result, Gen. Parker has used helicopters at Fort Rucker and instructed their instructors, particularly those that are on night training, to be on the alert in trying to endeavor to notify the local agents as well as local law enforcement as well as the Drug Enforcement Agency. This is an example of some cooperation. It is not any guarantee of that, but in relationship to the use of helicopters at Fort Rucker, do you foresee that there could be assistance given just by that in trying to spot planes carrying illegal drugs? Your radar would be much more efficient than other ways of doing that, but is there an area of cooperation now that exists?

Mr. BYRD. Senator, Gen. Parker has been most cooperative in our efforts in our local community in the enforcement of drugs, but I feel like students on a training mission are very busy in the cockpit of a helicopter and I feel like they could be an asset, but I still feel like a thing such as AWACS radar is the only thing you are going to be able to do to filter out the traffic that is incoming, but they have been very beneficial, the student pilots and instructors, in identifying marijuana on the ground. They have been very beneficial as far as letting us know in counties as far as west Alabama that they have spotted a sizable area of marijuana being cultivated. They have been very beneficial in that aspect.

Senator HEFLIN. You know, we get down to the issue that is in the forefront right now, the defense authorization bill, amendments are being considered on the floor, as well as other legislation. I am working on some myself pertaining to it with Senator Dole, and it is to the use of the military relative to interdiction of drugs coming into this country.

Of course, they claim that their primary mission is defense and that they have much more that they need to be doing in the area of defense than they have the resources to do it. As a result, they hesitate to take on any new roles. There are statements by certain military leaders that this would be expensive and time-consuming and that it would be taking away from their other functions. This of course has to be considered. Do any of you have any ideas or suggestions as to how or what portions, that is, if you did not have an all-out war from the military, as to what can be done on an all-out basis, and then on a somewhat limited basis, relative to that?

Mr. WILLIAMS. Let me address that first, if I might, Mr. Chairman. Back in the late fifties and 1960's and through the 1970's, we had a tremendous heroin problem in the United States. I was still in Mobile then and it was estimated that we had 500 heroin addicts in Mobile, which probably contributed to 80 to 90 percent of the criminal activity.

We only made one heroin arrest in Dothan, Alabama last year. What I am saying is in my opinion through our State Department negotiations with countries such as Turkey and the opium-producing countries, the heroin problem was somewhat arrested in this country. It is coming back. It is coming back out of Mexico, with what we call brown heroin. This was the white, pure heroin that we addressed. I think we have got to start on that level. I think the leaders in Washington, through diplomacy, through some means, have got to control where the question that Sheriff Purvis answered, the illicit drugs are coming from.

Secondly, I think we need a stronger enforcement program as we can provide; and, thirdly, we need education. We have lost a generation of young people, a great percentage of them. I submitted the first heroin to the State of Alabama lab in 1956. I say that to say that I have watched it over the years. The possibility exists that the only way we will ever effectively stop the drug problem is through education. I am looking at it in our schools, where we can raise a generation of drug-free kids. Those three things are important.

Mr. SORRELLS. On the issue of the military, the Attorney General and I met with the Coast Guard and other State agencies a couple of months ago. I think the first thing to do is to get military leaders, if you know what resources they have, along with people involved with drug prosecutions and drug enforcement to sit down and talk about how those resources could be utilized, both on an all-out plan, if we cannot do that then on a limited plan, because now we are talking in the dark, we are saying let us use the military. Use them for what? Let us sit down and say what kind of help could we have, if we had your resources, if we had the Coast Guard's resources for boats, for planes, for the AWACS radar planes, if we had the availability of it, what could we do, what plans could we make to stop the influx of drugs into the coastline in southeast Alabama and northwest Florida, and sit down and detail those things out and know where we are going, and if we can't have this, then let us have that.

I heard the statement in the committee the other day from the military leader which said it would cost us billions and billions of dollars, but if we cannot do that, let us have some help because we are in a war and I say let us do everything we can, take advantage of every resource we can get our hands on. I think that if you have the cooperation of drug agents and the military, we could say if we called on you in the situation, could you respond, could we have a boat to go into these waters, could your AWACS planes notify us of this occurrence, and if so, what resource could we call on and intercept that person, that boat or that plane coming into the United States. I think to sit down and talk about that and get Plan A to talk about all-out war and Plan B, limited use of resources, then I think the military leaders could be of help, it is not useless. You could combine your training with some of these products in drug enforcement and I think that is where we need to start, to sit down and advise the military what we need and the military to advise us what they could provide.

Mr. PURVIS. Senator, if I may, I was talking to a good friend and former colleague of our mutual good friend, Dave Horton, just the other day and we were discussing this very thing and his comment was here we are attempting to prevent World War III at our borders and we cannot keep a rag-tag fleet of shrimp boats from bringing illicit drugs into this country. I think it is a very valid observation.

A couple of years ago, Congress passed legislation that gave Customs and the Coast Guard and DEA as well a considerable amount of money to fight the importation of illegal drugs. We have along the Gulf Coast, the Florida coast what are called the Blue Lightning Strike Force or whatever.

I know that statistics have been presented, Senator, that sound impressive, I think they are impressive by their waste. I do not think they have accomplished what Congress intended. I think we are duplicating something that we already have. If we used the military to patrol the waters and the air near the source, we would be better off, if we went to the small end of the funnel. Our border on the South is vast. The countries where these airplanes and these ships leave from are small, the port facilities are limited, the airports where they can load and ship this stuff are limited. We know where they are. If we spent more time, if our military spent time identifying and tagging and passing this information on to Customs and those who are charged with stopping and inspecting cargo and what-have-you at our borders, I think that we would start getting in their pocket in a hurry.

Senator Heflin. That is an interesting observation and recommendation. Instead of 3,000 miles of coastline or borderline between Mexico, if you concentrated in about 20 different places where you figure they are going to have to come out of, that is certainly a better use of resources and it would be much more effective.

Well, this has been most interesting. I could continue. We have some votes on the floor back to back, and so if you will, we would like to call as our next witness Monica Benton, Director of Intergovernmental Affairs, National District Attorneys Association.

We are delighted to have you, Ms. Benton, and if you would, go ahead and give your testimony.

STATEMENT OF MONICA J. BENTON, DIRECTOR OF INTERGOVERNMENTAL AFFAIRS, NATIONAL DISTRICT ATTORNEYS ASSOCIATION, ALEXANDRIA, VA

Ms. Benton. Thank you, Senator. If there are time restrictions, Senator, please let me know. Do we have time restrictions?

Senator Heflin. Well, we will have to cut it to about 5 minutes, I think.

Ms. Benton. Okay. That is what I will be limited with.

Good morning and thank you, Senator Heflin, for convening this hearing and for your profound leadership in the area of improving the court system.

On behalf of the National District Attorneys Association, I am here to present our testimony in support of S. 1250. As you may know, the National District Attorneys Association is a membership organization comprised of not only elected and appointed district attorneys, but their deputies and assistants.

Through the National District Attorneys Association, we recognize the need for improved law enforcement and comprehensive work with the court system. To this end, we have developed the American Prosecutors Research Institute, which has now two federally-funded programs, one of which is the National Center for Local Prosecution of Drug Offenses and the other is the National Center for Prosecution of Child Abuse.

With respect to this particular bill, we support reauthorization of the State Justice Assistance Act. We know that we have district attorneys who are receiving the benefit of the awards granted by the Institute, one of which is in San Francisco, where they are training prosecutors and judges on the issue of domestic violence. We also know that prosecutors' offices throughout the country are benefiting from programs supported by the Institute through the victim witness system set up throughout the courts and through the prosecutors' offices.

We have only one objection to one amendment in the bill, and that pertains to the 50 percent matching funds. That we believe is detrimental to the prosecutors because we do not have the kinds of resources to be able to take advantage of seeking those awards. However, we are not deterred and we fully support reauthorization, despite that amendment.

I would also like to address title II of the act, which pertains to the Juvenile Justice and Delinquency Prevention Act. This particular Act has specific programs which are very beneficial to prosecutors and to the court system: on the low end, the youthful offender program, which has been established to obtain greater restitution for some of the more minor offenses committed by juveniles; on the high end, the special serious violent offender programs, some of which are in Philadelphia, Miami, Chicago, and in the State of Massachusetts. These we feel are very successful and do appropriately address the juvenile justice problems that the States and cities face.

The juvenile justice programs also are addressed by special emphasis programs which recognize the nationwide problems of juvenile justice. One of those programs is in fact our National Center for Prosecution of Child Abuse.

Your colleagues in the House have also approved reauthorization out of committee at this time and I think going on the floor in H.R. 1801. We would like to say that we fully support that bill, however we support all but one amendment, and I am sure that you may have already heard from the National Council of Juvenile and Family Court Judges regarding this one amendment.

This amendment specifically distorts the intent of the drafters of the Act by changing the proportionality between the formula grants and the special emphasis programs. We would urge you to remain and to keep the proportionality the same as it has always been, so that all programs can be appropriately funded and so the congressional oversight can continue in a significant way.

Thirdly, we would like to tell you we support the Justice Assistance Act. It is the one that contains the death benefits for public safety officers, the criminal justice information improvement, programs that have been awarded under the Justice Assistance Act which also assist prosecutors of the career criminal program and the programs that address court delay. Presently, 18 States take advantage of the career criminal program and 12 jurisdictions have the benefit of court delay programs. We would also support that appropriation in the amount of $100 million.

Lastly, we would like to encourage reauthorization of the block grant program under the drug law enforcement, title I. As you know, the 1987 Budget Reconciliation Act drastically severed the funds necessary for States to carry out programs which had begun as a result of the 1986 legislation. We would encourage not only reauthorization, but again increased funding to the original levels of $225 million.

In conclusion, we again appreciate you holding this hearing in Washington and allowing us to attend and register our support for this bill. We would urge that there be swift reporting out of this committee and passage by the Senate so that this can in fact become law by the end of the session.

Thank you.

[The statement of Ms. Benton follows:]

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TESTIMONY OF THE NATIONAL DISTRICT ATTORNEYS ASSOCIATION

SENATE BILL 1250

before
THE SENATE JUDICIARY COMMITTEE
Honorable Senator H. Heflin
presiding

Friday, May 13, 1988

Presented by

Monica J. Benton
Director of Intergovernmental Affairs
National District Attorneys Association

TESTIMONY IN SUPPORT OF SENATE BILL 1250

Senator Heflin, the National District Attorneys Association appreciates the opportunity to appear before you today. I am Monica Benton, Director of Intergovernmental Affairs of this association which has represented district attorneys since 1950. The National District Attorneys Association includes some 7,000 members representing every jurisdiction in this country. We appreciate your significant contributions to the courts and the consequent improvement to law enforcement in Alabama.

I. TITLE IV, REAUTHORIZATION OF STATE JUSTICE ASSISTANCE ACT

Today I would like to address several aspects of Senate Bill 1250, beginning with Title IV, the reauthorization of the State Justice Institute Act of 1984.

The National District Attorneys Association fully supports reauthorization of this Act and believe the programs of the State Justice Institute have great potential for augmenting the work of local prosecutors by reducing court delays and improving court procedures.

District Attorneys have already applied for funding to provide needed training for prosecutors and the judiciary on domestic violence cases, and have solicited support for victim witness programs. These activities—while providing significant benefits for victims — often cannot be carried out without outside assistance.

Through its potential to help underwrite such important ancillary services to local prosecutors' offices, the Act contributes to a comprehensive law enforcement effort. Reauthorization would undoubtedly allow these benefits to continue with greater impact as more prosecutors and professionals throughout the criminal justice system become aware of the Act's provisions.

The National District Attorneys Association has reviewed the amendments set forth in this legislation requiring a 50% match for grantee funds. While this restriction sometimes has a detrimental impact upon local prosecutors who seek Institute grants, we nonetheless support reauthorization because of the Act's overall consistency with our goals for improving the court system.

We urge and support swift reauthorization of Title IV State Justice Assistance Act.

II. TITLE II, SUBPART A, REAUTHORIZATION OF JUVENILE JUSTICE AND DELINQUENCY AND PREVENTION ACT

Turning to Title II, Subpart A of this bill, we would also support swift reauthorization of the Juvenile Justice and Delinquency and Prevention Act. The Juvenile Justice and Delinquency Prevention Act has promoted major reforms in state policies and programs dealing with juveniles and has served the local prosecutors of this country in significant ways. It has encouraged a variety of alternative services for youth whose offenses are less serious, including restitution, and targeted attention on violent offenders whose crimes and needs warrant court ordered treatment. In many jurisdictions, serious violent offender programs target youth who exhibit a repetitive pattern of serious delinquent behavior for more intensive prosecutorial and correctional intervention. These and other effective programs for youthful offenders were started under this Act.

Your colleagues in the House have approved reauthorization of the Juvenile Justice and Delinquency Prevention Act in a companion bill H.R. 1801. The National District Attorneys Association support all the amendments contained in the House bill, except one: the change in the proportional allocation of funds between formula grants to the states and special emphasis programs. We believe this amendment is flawed. It obstructs the intent of the original drafters of the Act to allow for needed testing of alternative approaches to combating juvenile delinquency and would reduce Congressional oversight opportunities.

Since special emphasis programs allow for Congressional oversight, as they should, any reduction of special emphasis funding would automatically reduce the scope of oversight. We wish to emphasize therefore that restructuring the formula proportions would reduce, not increase, possibilities for oversight.

We do not think the discretion of the agency administrator should be diminished in reaction to past frustrations or disappointments with special emphasis funding. Its purpose, as conceived by its founders, and its implementation over the years have responded to critical needs of juvenile justice.

With your permission we would like to make a singular recommendation at this time for the record. That recommendation is to allow the proportion of funds allocated to formula grants and special emphasis programs to remain in its original form as the Act's drafter, Senator Birch Bayh, intended. We urge your support in the Senate and leadership in this Committee preventing this change in the balance of funds.

The National Council of Juvenile and Family Court Judges agrees with us and has also testified regarding this issue in a recent Judiciary Committee hearing, held in Tucson, Arizona.

Again, we urge your swift action for reauthorization of Title II, Subpart A, Juvenile Justice and Delinquency and Prevention Act.

III. TITLE III, SUBPART A, REAUTHORIZATION OF THE JUSTICE ASSISTANCE ACT

Lastly, the National District Attorneys Association supports Title III, Subpart A, the reauthorization of the Justice Assistance Act. Through the block grant program under this Act, 13% of the appropriations are aimed at prosecution and adjudication. Currently 18 states are funding career criminal prosecution programs and 12 are addressing problems related to court delay. As a result of block grant programs, local prosecutors and state judges are the direct beneficiaries of special emphasis upon the problem of the career criminal.

In conclusion, thank you Senator Heflin for this important opportunity to inform your Committee of the concerns of local prosecutors as addressed by the reauthorization of the State Justice Assistance Act, the Juvenile Justice and Delinquency and Prevention Act, and the Justice Assistance Act.

Senator HEFLIN. I do not believe you mentioned in your prepared statement the State and local narcotics control grant program.

Ms. BENTON. That is true, I did not.

Senator HEFLIN. This program was established in the AntiDrug Abuse Act of 1986 and provides $230 million each year to State and local law enforcement agencies for drug enforcement. This bill, S. 1250, would reauthorize this program in 1992. The 1986 drug bill provided that funds would be spent for prosecution and adjudication. Are prosecutors receiving any money under this program?

Ms. BENTON. They are. In fact, programs are under way in 49 of the 50 States. I come from the State of Washington as a prosecutor and we had programs that were begun in the nature of a multidisciplinary, multi-jurisdictional approach to tackling the problems of drug law enforcement. Of course, with the reduction in funds, there is serious question of whether these programs can be continued and we feel very strongly about an appropriate appropriation.

Senator HEFLIN. I assume that the National District Attorneys Association supports the reauthorization of this program?

Ms. BENTON. Heartily.

Senator HEFLIN. Prosecutions for drug offenses have greatly increased in recent years at both the Federal and the State and local levels. Are any of the programs that are funded under the programs in S. 1250 designed to assist State and local prosecutors and courts in dealing with this increased workload from drugs?

Ms. BENTON. Essentially, what we have seen is a coordinated effort in the area of investigation, not so much in the area of prosecution or involving the increased workloads in the courts. We hope that with greater appropriations we will be able to expand those programs, but clearly in my own office we had to dedicate several deputies to handle the increased number of cases and those deputies were working twice as hard as anyone else just because of the increased workload, even though there was no money for additional appropriations.

Senator HEFLIN. I am concerned about drug trafficking by our Nation's youth. A recent cover story in Prime Time Magazine cites numerous examples of drug trafficking cases involving 12 and 13 year old children. Your statement indicates that some of the juvenile justice programs included in S. 1250 are targeted at violent juvenile offenders. Can you tell me specifically what kind of programs are being funded?

Ms. BENTON. I could only identify some of the areas of the country in which they are being targeted, and I mentioned those earlier, Chicago, Miami, Massachusetts. The National District Attorneys Association has a juvenile justice director who is exploring and surveying the problem to see exactly what we can do. I think it is in the area of research right now vis-a-vis our organization.

I should mention that the Youth Law Center has received a grant from the State Justice Institute which is allowing them to investigate it as well, so that hopefully greater appropriations will be awarded for that effort.

Senator HEFLIN. One of the major ways the Federal Government assists State and local agencies by sharing forfeited assets from joint forfeiture operations, yet the Justice Department has ruled that the local prosecutors are not able to receive shared assets under this program. While S. 1250 does not affect this program, do you know if the National District Attorneys Association has taken a position on this issue, and would your organization support legislation which would allow the Federal Government to share forfeited assets with local prosecutors?

Ms. BENTON. In a word, we would support that, yes, we would support that legislation. We do not have an official position, however we have been working with the executive working group originated out of the Department of Justice, and to my knowledge what they have done is they have modified the guidelines in a liberalized way, if you will, to allow prosecutors' offices to receive some of that pass-through money if they assist in investigations. We would like to see legislation obviously which would include the complete arena the prosecutors operate in, such as the grand jury process, as well as bringing these cases to trial, and at this point obviously that is not in the legislation and we would like to see that.

Senator HEFLIN. Thank you very much for your testimony. We may submit written questions to you and, if so, we would appreciate prompt return of the answers.

There may be other statements submitted in the record of support of S. 1250 and therefore the record will be kept open for a reasonable period of time.

Ms. BENTON. Thank you very much, Senator.

Senator HEFLIN. Thank you.

That concludes our hearing. The subcommittee is now adjourned.

[Whereupon, at 11:43 a.m., the subcommittee was adjourned.]

APPENDIX

TESTIMONY OF SALLY MAXTON

SENATE JUDICIARY COMMITTEE
SENATOR JOSEPH BIDEN, CHAIRMAN
CLEVELAND, OHIO
MARCH 10, 1988

I am Sally Maxton, Director of the Ohio Youth Services Network. Mr Chairman and Senator Metzenbaum, we want to thank you for all of your work on reauthorization of the Juvenile Justice Act and the Runaway Youth Act.

We understand that the Judiciary Committee has some very difficult decisions to make regarding funding priorities but we hope to leave you with no doubts as to the value and cost effectiveness of runaway youth centers in Ohio, and across the country.

Mr. Chairman, for the cost the military pays for this bag of screws which we purchased at a local hardware store for.39 cents we could fund several runaway centers in Ohio. For the cost of one B-1 bomber, or maybe even just the screws in one B-1 bomber, we could double the funding for the Runaway Youth Act.

There was a story last year about the commuter trains in England. The president in charge of the train companies was presented with an award because in his charge as president, for an entire year all of the trains had been on time.

When asked how he had accomplished this incredible feat he responded, "Ladies and gentlemen, it's very simple. We were able to keep to our schedule perfectly because we only picked up every other passenger."

This is what we seem to be doing with our runaway centers in Ohio, only we're averaging more like one in ten. The shelters operate on a concept of unconditional care and are working to ensure that kids who self-refer to runaway shelters are not turned away. Where the lack of resources takes its toll is in terms of outreach services as I believe Michigan runaway centers found out when they utilized just two city buses to advertise their services. They were overwhelmed with the large number of clients.

We know that we are not reaching all of the runaway youth in Ohio and that we, like Michigan, are not in a position to do extensive outreach services to runaway youth in crisis. There are many unserved and underserved areas both locally and across the state.

Accurate estimates of the numbers of runaway youth are difficult if not impossible to obtain, as many runaways do not come into contact with legal or other youth-service systems. A few studies have been undertaken in the past that have sought to arrive at more accurate figures of the prevalence of running away. Based upon a study conducted in the mid-1970's by Berkeley Planning Associates, it was estimated that 55,000 Ohio youth run away from home each year. The results of the National Youth Survey project on the prevalence of delinquent behavior, conducted annually by the Behavioral Research Institute, indicated that, of a representative national sample of youth, an average of 5.2% indicated that they had run away during the previous year. This average is based upon annual responses for the period of time from 1976-1980, the last year that this particular question was asked.

The following data is reflective of the services that the eleven runaway shelters currently operating in Ohio are providing each year. It was derived by doing a projection for a year period of time based upon actual service data from the last six months of 1987:

- 4,066 youth will be provided with residential services
- 3,044 youth will be served on a non-residential basis
- 1,694 youth will be served on a one-time contact only basis
- 1,890 youth will be provided with aftercare services
- 2,582 families will receive counseling

Runaway shelters offer in-person and telephone crisis intervention services 24 hours a day, 365 days a year, yet based upon the Ohio shelters that responded to a 1985 survey conducted by the Ohio Youth Services Network, the average shelter employed only 16 staff persons--half of whom were part-time.

One of the major issues for us, therefore, is lack of funding. It is our hope that somehow in the appropriations process a figure for the Runaway Youth Act of $50 million, or a pound of Pentagon screws, can become a reality.

You have heard in national testimony and in this morning's testimony about the value of the work that the shelters do and about their resource issues. You have also heard how Safe Landing has worked effectively to generate community resources to support two local shelters. In 1984, the average Ohio shelter received funding from two federal sources and four other sources, such as city/county, United Way, foundations, corporations, and individuals. That same year each shelter averaged 56 volunteers and 6,100 volunteer hours per year of volunteer time, supplemented by 16,640 hours of service by 8 VISTA volunteers working across the state.

Even with these monumental efforts to develop a multi-funding base they are struggling to adequately support the operations of 24-hour crisis centers. Many of them are dramatically understaffed and staff are dramatically underpaid.

Recently Doug McCoard, Director of Huckleberry House, completed a comparable salary survey and found that the entry level salary at a local hamburger chain was $1.00 more per hour than the entry level salary for house managers at the runaway center.

The major resources for runaway and family crisis centers is not their facilities. Although the state of Ohio provided us with $250,000 a year ago for capital improvements which allowed Safe Landing to purchase a new facility and allowed other centers to make other drastically needed improvements, many of the shelters still have major plumbing, heating and weatherization problems, walls in need of plastering, drafty windows, and furniture in need or repair. but the shelters are functional, and comfotable, and youth comment frequently that they feel at home there.

The major resource for a runaway center is not the food, although home cooked meals are provided, and some centers rely on resources from USDA government surplus programs and sometimes utilize cooks from the general relief program.

The shelters' major resource is not recreation -- you will not see gymnasiums or swimming pools there, though you will see arts and crafts, and guided meditations, and a great deal of individual and family counseling going on.

The major resource for a runaway center, and for the runaway youth coming there in crisis, is the staff of the center, and that is why they have been so successful in engaging youth and why youth come there voluntarily and stay. Doug McCoard commented to me recently that the rate of runaways from state DYS facilities, secure facilities covered with rolls of razor sharp concertina wire, is far higher than the rate at Huckleberry House which is not staff secure, and provides open doors.

Kids don't run away from our runaway centers because they are getting what they need in terms of support and help in resolving their crisis whether it be drug and alcohol issues, school problems, physical or sexual abuse (which is estimated to be the case with up to 60% of our youth), suicidal problems, depression, educational issues, family conflicts, and other problems.

And yet this golden resource, our staff, is tremendously underpaid and overworked. It never ceases to amaze me how staff can continuously work long hours a week for low salaries with very little chance of promotion or salary increase. I have seen some staff continue to work for fourteen or fifteen years because of their deep devotion to kids and families in crisis and I marvel at their tenacity and strength.

I have also seen all but one shelter director in Ohio finally decide to leave their jobs, not because they didn't love their work but because they couldn't support their families and something in the youth work field was offered to them paying twice as much. I have witnessed the burnout and stress of runaway shelter directors and line staff who have left this work over the last nine years, and those who continue to toil in these rugged vineyards, with their satisfaction in helping youth in crisis and reconciling families providing them with motivation and strength against incredible obstacles.

We have a tremendous responsibility to protect this resource which meets a need that many traditional agencies don't know how to meet.

There was a story in the paper last week about a man who was dying. His doctor told him to go home to die, that there was no possibility of his surviving beyond seven o'clock the next morning.

He accepted his fate and said to his wife, "Maude, we have eight hours left together. Let's spend our time making mad, passionate love together and our last memories will be beautiful ones."

She turned to him and replied, "That's easy for you to say, Harold. You don't have to get up in the morning."

Sometimes I feel that that same callous attitude is the one we get from our funding sources who have no concept of what an incredible strain and stress is involved in working in a 24-hour crisis center and so simply give us platitudes, "Just develop a multi-funding base." "Write to foundations." "Write an innovative discretionary grant." "Network with your state legislature."

We have done all of these things and more. As Ohio State Representative Jane Campbell has testified before the House Human Resources Subcommittee, this state, through her efforts, recently allocated $100,000 per year for operational funds for runaway centers. This was seen as a major miracle in the state budget ans was one of the few new initiatives funded at a time when human services were cut by millions of dollars.

It is simply not as easy as it sounds to our funding sources to develop an adequate funding base for shelters, and in rural areas and small towns it is particularly difficult.

Last year, 83.5% of the Runaway Youth Act appropriation was spent on basic center grants. About one and a half million dollars was spent on high impact grants and cross-program model demonstrations. Some of these models have been interesting and some have even been related to runaway youth, but we have a problem with this piece for several reasons.

First, we haven't met the basic needs of our existing runaway centers. We are not providing adequate funding for staffing 24-hour, round-the-clock crisis counseling. These grants are splashy and innovative but often not essential. It is like the triage in a MASH unit. We need to take care of our basic center grants which are in critical condition rather than funding a large number of innovations, which represent more the plastic surgery, only the face lift or tummy tuck part of the triage, optional -- not essential.

Innovations can still be supported but with one or two pilots in essential areas rather than six or seven in a variety of categories, some of which have not been remotely related to runaways.

The second issue with discretionary grants is the incredible amount of time it takes to write a grant (our shelters do not have development staff) and then to implement it. Our agency did a research and demonstration grant with HHS a few years back and the R & D took so much time away from our basic functions we opted not to do another one.

Thirdly, these grants are temporary. A shelter invests a great deal of time and energy in writing and implementing an R & D grant only to have the grant come to a screeching halt after two or three years. It is far more difficult than our funding sources realize to get local or state resources to pick up on these innovations.

Bob Mecum, Director of New Life Youth Services which operates Lighthouse Runaway Center in Cincinnati, and Doug McCoard of Huckleberry House, have both received several R & D grants and received rave reviews from YDB and local media for their work. Both of them support earmarking 90 to 95% of RYA funds for basic center grants. Too often they have seen their wonderful work on the Freedom Factory, Teen Suicide, Child Abuse, etc. come to naught when the discretionary grant funding cycle ends. They then have to either close the programs and lay off the staff who have been trained to provide this innovative model or create something new, innovative and splashy only to have to witness its death two years later.

None of this makes sense when the basic, most critical crisis intervention and shelter services are underfunded and shelters across the country are dying on the vine.

RECOMMENDATION 1:

Therefore, we recommend that 90-95% of Runaway Youth Act funds be earmarked for basic center grants, the most critical service to runaway and homeless youth.

NEW STARTS

Whether we recommend 90 or 95% depends on the Committee's response to our recommendation on new starts, that is newly created runaway centers funded under the Runaway Youth Act. there is a need for more runaway centers in Ohio and in other parts of the country. However, the mechanism for funding new starts provides a curious catch.

Two years ago a new center was funded in Clermont County for $70,000 This was done by taking funds from each existing center. Although shelters have been supportive of new centers and staff once they are on board, it puts both new starts and existing shelters in an unfair predicament when one is funded at the expense of the other.

A side issue relates to the quality of new starts. We understand that in their interest to start new programs, YDB almost funded a furniture warehouse in the Bronx. Fortunately, someone who knew the name called to inform them that this was a center for furniture, not runaway youth.

YDB needs to review its policy on funding new starts. In some ways it's like a family which cannot afford to feed its four children deciding to adopt three more. It's noble but maybe not so wise.

RECOMMENDATION 2:

Therefore, we recommend that 5% of the Runaway Youth Act appropriation be earmarked for new starts, and that clear criteria be established for these grants to ensure that they are providing alternative, non-secure services to runaways. These grants should be funded for three years out of the new start initiative, with continued funding dependent on an annual evaluation. If this recommendation is not accepted, we would then recommend that 95% of RYA funding be allocated to direct center grants.

RECOMMENDATION 3:

We recommend that no more than 5% of the current RYA appropriation be spent for services other than direct services by runaway centers and that priorities be established for use of discretionary funds so that they are of direct benefit to runaway youth.

This would allow for earmarking funds for the national toll-free communications system, which benefits runaway youth across the nation and for coordinated networking grants which should be provided for regional and state networks but it should be capped at the existing funding amount.

HOMELESS YOUTH

The plight of homeless youth in this country as well as homeless families reflects a most disturbing trend. I don't believe that we are seeing the kinds of numbers of homeless youth that are being seen in cities like New York and Los Angeles. Several of our shelters are involved with local homeless coalitions to provide coordinated services to youth and families.

Many of our shelters have expressed concern that youth who turn 18 are not magically healed but are often denied service because of their age and state and federal regulations which prohibit services to youth 18 years and older. We have also heard from local mental health systems that they are seeing a number of our transient children as homeless adults with severe emotional problems.

We had hoped that the Moynihan bill which provided $40 million for independent living would help us to resolve this issue, but these funds are for IV-E children who have come through the child welfare system and in Ohio are used to fund child welfare placing agencies. This is not much help to the truly homeless.

We want to emphasize that the transitional living project should include a clear definition of homeless -- so that these programs are serving the truly homeless and "throwaway" kids.

It is also important that a clear distinction be made between transitional living programs for the homeless and runaway crisis centers. One is long term and the other short term crisis intervention. Both are needed. Language needs to be clear so that runaway centers do not become long term child placing agencies for the child welfare system.

The shelter function of providing crisis care and reconciling the majority of youth and families and therefore avoiding placement should not be lost, but there should be a clear, effective working program for homeless youth.

RECOMMENDATION 4:

Additional funds in a separate section should be provided for transistional living projects for homeless youth ages 15-21 years for whom it is not possible to live in a safe environment with a relative and who has no other safe living arrangement. Funding for this initiative should be triggered when RYA funding reaches

35 million.

RELATIONSHIP OF RYA TO OJJDP COMPLIANCE

Because the Runaway Youth Act is Title III of the Juvenile Justice and Delinquency Prevention Act, I want to stress how important it is to the Act. In communities where runaway shelters exist we often see the highest rates of compliancy with OJJDP mandates regarding deinstitutionalization of status offenders.

Court in these communities, as well as police, utilize runaway centers as an alternative to detention. They have continued to use the shelters over the years because of their effectiveness in serving runaway youth. Many of the youth our shelters see also have problems with truancy and incorrigibility, other unruly offenses in Ohio. The crisis intervention service allows informal intervention on these issues and working productively with families and youth, thereby avoiding detention altogether.

In communities where shelters do not exist courts use a variety of dispositions including detention, diversion, and group home and foster home placement which often occurs for a much longer period of time than the short term crisis services provided in the shelter.

Of significant concern in some counties is the use of violation of a valid court order which often results in long term detention (up to 90 days) for a second status offense, e.g. second runaway, truancy, or incorrigibility charge. Since the Ashbrook amendment exempted VCO's from compliance monitoring, these youth are not even being tracked and some are staying far too long. I have spoken with a couple of judges and detention center staff, one of whom recommended a limit of five days in detention for violation of a valid court order, and another who recommended a 15 day limit. Parents also tend to abdicate responsibility for youth who have been placed in detention for a long term, making family reconciliation more difficult.

RECOMMENDATION 5:

Compliance tracking should be required of state planning agencies regarding numbers of youth in detention and length of stay for violation of a valid court order. Congress should mandate that no youth should be held for more than 5 days for violating a court order.

OJJDP FUNDING FOR STATE FORMULA GRANTS

Last year only $43 million of the $67 million allocated nationally to OJJDP was used for block grants to the states. This provided about $1.8 million for Ohio. Ohio uses this money very wisely, targeting funds to jail removal, DSO, alternatives to institutions and serious and sex offender treatment programs.

Use of federal discretionary grants has been more questionable.

RECOMMENDATION 6:

We recommend that 83% ($55,278,000 of this year's appropriation) of the appropriation for OJJDP be earmarked for state block grants.

LOSS OF FUNDING

Although this is a reauthorization hearing, we wanted to stress as strongly as possible the need to restore funding to OJJDP, to the Justice Assistance Act and to the Anti-Drug Abuse Act (Subtitle K). Loss of these funds would be absolutely devastating to Ohio.

JAA (Justice Assistance Act) funds are used to fund a variety of law enforcement and victim assistance funds as well as treatment for serious offenders. Ohio receives about $2 million from JAA and its share of Drug Abuse funding recently plummeted from $7 million to $1.7 million, this after DYS and other state and local projects had developed comprehensive drug treatment programs. The loss of the drug money will bring these programs to a screeching halt.

JAIL REMOVAL

Ohio has gone from holding about 6,000 youth in adult jails to 300 youth (in two counties), and it looks promising for a bill recently introduced in the state legislature to mandate jail removal. This could not have been accomplished without the Act and spares many Ohio youth from an incredibly victimizing experience.

However, we hope we won't be fiscally punished for our success when we achieve 100% compliance in the near future. (We are aware of the proposed earmarking of $3 million of OJJDP funds for jail removal, an endeavor we fully support).

RECOMMENDATION 7:

We recommend permissive language in the reauthorization bill to say that if a state has achieved compliancy with jail removal mandates it is authorized to reprogram its share of the $3 million earmarked for jail removal for other initiatives provided for in its directives, e.g. the deinstitutionalization of status offenders, treatment for violent offenders and sex offenders, etc.

TREATMENT FOR VIOLENT OFFENDERS AND ADOLESCENT SEX OFFENDERS

Although earmarking $60 million for state block grants would be the most effective way to allow Ohio to provide more adequate funding for these programs, we may want to recommend this area as a funding category for federal discretionary grants.

These offenders require the most concentrated funding to provide longer term, more intensive treatment with a rich staffing pattern and tie into community protection and victim awareness issues.

The average adolescent sex offender has 7 victims. The average adult offender (according to Becker and Abel's research) has 76 victims. Treatment of adolescents, therefore, prevents victimization in a big way. (The average age of an adolescent sex offender's victim is age four).

There is a lot of discussion in Ohio about dealing with victims in the court system (investigation, prosecution, and treatment) but this approach is an ambulance approach, after devastating damage has been done.

Fay Honey Knopp has said dealing with sexual victimzation by creating more victim programs is like dealing with diarrhea by creating more outhouses -- a graphic but true commentary.

RECOMMENDATION 8:

We recommend a federal initiative in the area of serious/violent and sex offenders.

MISSING CHILDREN'S ACT

RECOMMENDATION 9:

We recommend that the definitions in this act be amended to provide clarity regarding the difference between a missing and a runaway child. The key word regarding a missing child is concealment and this should be inserted. We also believe that the Attorney General's Advisory Board has not provided any insight into the issue of either runaways or missing children and suggest that it be abolished.

SUMMARY

Last year, my nine year old was asked to write an essay on the subject "What I would buy if I could buy anything I wanted." Her friends wrote about bikes and big wheels, chinese jump ropes and computers. Asia wrote, "Eastland Mall because it has a lot of stuff I want."

I understand the limits of the federal budget in these years of Gramm Rudman, federal deficits, and stock market quirks, however, in closing, I want to share a brief science lesson from OMNI and relate it to the Chairman's interest in screws, and a fairy tale from the Brothers Grimm.

"In the Amazon jungle there lives a large blue butterfly. The larvae of the butterfly grow and thrive on sweet sticky substance exuded by the larvae of ants. The neighboring ants are seen daily in large lines delivering their babies to be eaten by the butterfly larvae. Whatever is exuded by the butterfly young must be so much like a drug to the adult ants that they allow their babies to be eaten for it."

This piece reflects what the administration seems to do in the federal budget. We pay a fortune for military screws, but when it comes to our young, our elderly, our poor, our vulnerable populations, we deliver all of them to the door of one small appropriation and watch them eat each other up, and the young are eaten first because they don't vote and they don't lobby.

I have seen kids who have come to our shelters with a host of problems reconciled with their parents with their self-esteem intact. I have seen two weeks of intense, compassionate intervention by shelter staff resolve a crisis. 80% of our youth end up back at home with their families. This two weeks of work with aftercare often means that rather than languishing in the child welfare system or juvenile justice system for years and becoming "systems kids" these kids stay with their families. This results in happier lifetimes as well as cost savings.

The final story is about a family. They are eating dinner and the grandmother, weary with the years, drops her spoon.

The father yells, "Old woman, you are too messy. From now on you will drink your soup from the bowl. You don't deserve silverware."

The next night, the grandmother dropped the whole bowl. The mother screamed at her, "Old woman, you are nothing but a pig. you are disgusting to look at. From now on you can't eat at the table. you will eat from a trough by the fireside."

The next night their young son was playing by the fireside with a hammer, boards and nails (and screws which he purchased at the hardware store for 5 cents). His father asked him what he was doing.

He replied, "I'm making a trough for mommy and daddy to eat out of when they get old."

The scariest part about this country's neglect and abuse of its young is that these are the children who will make the decisions about us and for us when we are old. If we provide the right support and resources for them now when they are in crisis, and give them the values, self esteem, and skills they need now, we will have healthy kids making good decisions. If not, we will pay the cost personally and as a nation.

CONCLUSION

The Runaway Youth Act works. We are aware of your miraculous efforts over the past years on behalf of this Act and the Juvenile Justice and Delinquency Prevention Act.

For this and for your wonderful support of runaway and homeless youth and youth in crisis, we thank you. We truly don't know what we would have done without you. Many of us wouldn't be here and many, many youth in crisis would be without services.

MADD

Mothers Against Drunk Driving

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STATEMENT OF JANICE H. LORD
MOTHERS AGAINST DRUNK DRIVING

CONCERNING REAUTHORIZATION OF THE
VICTIMS OF CRIME ACT OF 1984

April 25, 1988

I am Janice Lord, Director of Victim Services for Mothers Against Drunk Driving at the National level.

Our organization supports the reauthorization of the Victims of Crime Act and encourages the correction of language which, possibly unintentionally, has resulted in the exclusion of survivors of homicide, among them victims of drunk driving crashes, from VOCA benefits.

Surviving family members of a loved one killed or murdered have tremendous needs for financial recovery for funeral and burial expenses, final medical care, and mental health counseling. They also need the supportive services of a strong victim assistance program. It has been well documented that survivors facing the sudden violent and senseless killing of their child, spouse, parent, or sibling, have high incidences of post-traumatic stress disorder.

Therefore, we recommend that:

(1) Survivors of homicide be added as a fourth priority group (to victims of sexual assault, spouse abuse, and child abuse); or, if priority groups are removed, language be included to the effect that all population groups eligible for victim compensation shall also be eligible for services funding; and

(2) states be required to include victims of drunk driving crashes in their definition of "crime victim" for victim compensation. (32 of the 45 states with compensation programs have now done so.)

The attached recent study of the financial impact of including victims of drunk driving crashes shows that only 3/10 of one percent of victims of drunk driving crashes will apply for compensation (those who are unable to financially recover through insurance) and that no more than 5% of applications or awards go to drunk driving crash victims. Awards are approximately 1.6 times larger than average because of the catastrophic nature of injury in drunk driving crashes.

Drunk driving is not an accident. It is a sudden, violent, and senseless crime, and it's victims are entitled to compassionate victim services and adequate victim compensation.

Attachment

MADD

Mothers Against Drunk Driving

669 Airport Freeway, Suite 310 • Hurst, Texas 76053 • (817) 268-MADD • FAX (817) 268-6827

April 22, 1988

As we did last year, MADD has contacted the Directors of State Victim Compensation Programs to determine the financial impact of including victims of drunk driving crashes among those eligible for compensation awards.

The figures on the following tables were drawn from (1) the reports of the Compensation Directors to MADD and (2) Reports to the Federal Victims of Crime Office in the event the state did not respond to the MADD survey. In most cases, the reports sent to us were the same, or close to the reports sent to VOCA. In those cases where the two reports varied significantly, both figures are entered and averaged.

The degree of accuracy of these findings is not absolute, because the states still vary in their reporting criteria. However, it is our best estimate and is absolutely valid regarding trends.

Conclusions from the following tables are as follows:

- 32 states of the 45 which have Victim Compensation Programs have now included drunk driving crash victims in their programs.
- Less than 5% of total claims are filed by victims of drunk driving crashes.
- Less than 5% of total number of awards are granted to victims of drunk driving crashes.
- Average awards to victims of drunk driving crashes are 1.5 times to 1.6 times higher than overall average awards.
- 3/10 of one percent of victims of drunk driving crashes receive victim compensation awards.

Some of the states which have not yet included victims of drunk driving crashes have expressed the fear that because the number of victims killed or injured by drunk drivers remains high, the compensation fund will not be able to handle all the claims.

April 22, 1988

This argument is without merit. The most obvious reason is that liability insurance will allow for recovery of most drunk driving crash victims. Those victims who do apply for compensation will be those in cases which the drunk driver had no recoverable insurance, income, or assets, victims in the truest sense of the word.

If you have questions or concerns, feel free to give me a call.

Respectfully,

Janice Lord

Janice H. Lord
Director, Victim Programs

JHL:jc
ATT.

TABLE 1

STATES WHICH COMPENSATE VICTIMS OF DRUNK DRIVING CRASHES

Prior to 1984:
California
W. Virginia
Delaware
Colorado
New Mexico
Washington
Alaska
Rhode Island
8

Added in 1984:
So. Carolina
Alabama
Iowa
Kentucky
Missouri
Texas
6

Added in 1985:
Wisconsin
Connecticut
Florida
Illinois
Minnesota
New York
Tennessee
7

Added in 1986:
Kansas
Nebraska (no funding)
2

Added in 1987:
Massachusetts
Oregon
Wyoming
Nevada
No. Dakota
Indiana
Arizona
Idaho
Utah
9
32

Compensation Programs which do not grant awards to victims of drunk driving crashes:

District of Columbia
Hawaii
Louisiana
Maryland
Michigan
Montana
New Jersey
No. Carolina
Ohio
Oklahoma
Pennsylvania
Virginia
12

States which have not yet passed Victim Compensation Law:

Georgia
Maine
Mississippi
New Hampshire
So. Dakota
Vermont
6
18

TABLE 2

* Less than 5% of total claims are filed by victims of drunk driving crashes.

State	% of Total Claims by DWI Victims		
	1985	1986	1987
California	n/a	3%(est.)	3%(est.)
Delaware	3%	6%	n/r
West Virginia	n/a	5%(est.)	14%
Washington	5.5%	5.2%	n/r
Alabama	n/a	4%	.2%
Iowa	2.8%	3.7%	5.2%
Kentucky	.8%	3%	n/r
Missouri	2.5%	3%	n/r
Texas	3.7%	3.8%	4%
Wisconsin	3.8%	4%	6%
Connecticut	r/a	.02%	2%
Average	2.7%	3.7%	4.9%

* Several states record grants given by type of victimization, but not claims filed by type of victimization. Therefore, Table 2 is shorter than Table 3.

TABLE 3

- Less than 5% of total number of awards are granted to victims of drunk driving crashes.

State	% of Total Awards to DWI Victims		
	1985	1986	1987
California	5% (7[illegible]4 awards)	3.6% (566 awards)	4.8% (994 awards)
Rhode Island	n/r	5% (4 awards)	5.6% (4 awards)
Delaware	1% (2 awards)	5% (9 awards)	8% (12 awards)
West Virginia	5.8% (15 awards)	10% (12 awards)	11.5% (6 awards)
Colorado	n/r	n/r (21 awards)	.7% (17 awards)
Washington	4.7% (51 awards)	4.5% (37 awards)	no response
Alaska	n/r	n/r	13.5% (20 awards)
South Carolina	(15 awards)	(17 awards)	1.6% (26 awards)
Alabama	n/r	6% (12 awards)	.3% (1 award)
Iowa	2.8% (8 awards)	4.1% (13 awards)	7% (27 awards)
Kentucky	0% (0 awards)	3% (9 awards)	4.4% (13 awards)
Missouri	.6% (2 awards)	2.9% (9 awards)	4.4% (23 awards)
Texas	3.3% (42 awards)	4.3% (81 awards)	4% (170 awards)
Wisconsin	4.4% (13 awards)	5.2% (15 awards)	3.1% (20 awards)
Connecticut	n/a	n/a	.7% (4 awards)
Florida	n/a	.2% (16 awards)	1.3% (70 awards)
Minnesota	n/a	.3% (3 awards)	3.7% (25 awards)
Average	3.1%	4.2%	4.4%

TABLE 4

° Average awards to victims of drunk driving crashes are 1.5 - 1.6 times higher than overall average awards.

State	Average Award			Average Drunk Driving Crash Victim Award		
	1985	1986	1987	1985	1986	1987
California	n/a	$4,306	$1,725	$3,701	$4,650	$2,226
Rhode Island	n/a	8,906	7,227	n/a	10,123	5,985
Delaware	$2,216	3,674	3,930	7,475	10,656	8,600
West Virginia	n/a	6,590	15,553(MADD) 6,045(OVC)	n/a	14,871	8,895(MADD) 19,649(OVC)
Colorado	n/a	n/a	703	n/a	592	1,564
Washington	2,598	4,557	1,535	n/a	n/a	n/a
Alaska	n/a	n/a	4,303	n/a	6,148	5,051
South Carolina	n/a	n/a	785	n/a	4,315	1,586
Alabama	n/a	3,546	2,918(MADD) 2,556(OVC)	n/a	3,334	n/a
Iowa	1,143	1,464	1,430	2,859	775	1,963
Kentucky	3,188	2,608	3,088	n/a	5,853	1,938
Missouri	3,403	3,619	3,534	4,476	3,846	3,741
Texas	5,630	4,711	4,055	8,793	7,330	5,183
Wisconsin	1,378	1,318	1,698	3,241	2,767	7,113
Connecticut	2,728	3,630	3,179	n/a	n/a	10,000
Florida	n/a	620	1,344	n/a	4,637	3,607
Illinois	n/a	n/a	3,433	n/a	n/a	0
Minnesota	n/a	1,569	1,406(MADD) 1,868(OVC)	n/a	1,200	2,958
New York	n/a	955	n/a	n/a	752	n/a
AVERAGE	$2,831	$3,404	$3,444	$4,344 (1.5X higher)	$5,115 (1.5X higher)	$5,628 (1.6X higher)

* In West Virginia, Alabama, and Minnesota, reports to MADD and OVC varied significantly, possibly due to differing time frames or reporting procedures.

TABLE 5

- 3/10 of one percent of victims of drunk driving crashes receive victim compensation awards

State	1986 DWI Fatalities	1986 DWI Injuries	1986 Compensation Awards	%
California	2,542	69,876	566	.7%
Washington	382	13,517	37	.3%
South Carolina	447	6,402	17	.4%
Delaware	80	1,754	9	.5%
Kentucky	194	5,600	9	.2%
Missouri	284	8,864	9	.1%
Florida	1,627	36,362	16	.1%
			Average	.3%

Funding Source of Compensation
Program of Reporting States
(Excluding VOCA Funding)

Alabama:	$25-$10,000 fines on felonies; court costs: $15 on felonies, $10 on misdemeanors, $2 on moving traffic violations.
Alaska:	Fines, penalty assessments, and restitution.
Arizona:	Penalty assessments.
California:	Penalty Assessments ranging from $10 to $10,000, including $25 fine for DWI, to to Restitution/Compensation Funds.
Colorado:	Fines of $50 for felonies, $30 for misdemeanors and $15 for Class 1 and Class 2 traffic offenses, and restitution.
Connecticut:	Penalty assessment of $20 on felony convictions, and $15 on misdemeanor convictions.
Delaware:	15% surcharge on all fines, including motor vehicle violations.
Florida:	Fines and penalty assessments.
Idaho:	Fines and restitution.
Illinois:	General revenue.
Indiana:	Penalty assessments and 10% of work release wages from offender.
Iowa:	Fines and penalty assessments $100 civil penalty on all drunk driving convictions goes to crime compensation fund.
Kansas:	Penalty Assessments.
Kentucky:	General revenue plus $10 additional court costs on all guilty felonies and misdemeanors.
Massachusetts:	General revenue.
Minnesota:	General revenue, assessments and surcharges, driminal fines, inmate surcharge, forfeitures.
Missouri:	Penalty assessment of $26 on all convictions, $25 of which goes into the Victim Compensation Fund.
Nebraska:	Not funded since 7/85.
Nevada:	Fines, notoriety for profits, collections, and bail forfeitures.

Funding Sources (Cont'd)

New Mexico:	General Revenue.
New York:	General Revenue.
North Dakota:	General Revenue
Oregon:	General revenue and penalty assessments.
Rhode Island:	$20 misdemeanor fee or 10% of fine, whichever is greater $60-$100 felony fee or 10% of fine, whichever is greater.
South Carolina:	Penalty assessments and restitution.
Tennessee:	Penalty assessments, fines, bond forfeitures, and a privilege tax on drunk and reckless drivers.
Texas:	Penalty assessment of $20 on felony convictions, $15 on misdemeanor convictions over $200, and $12.50 on misdemeanor convictions under $200.
Utah:	Effective 1/87, 25% victim surcharge up to $100 on all DUI cases.
Washington:	32% of all revenues from state courts go into a dedicated account from which 8 programs, one of which is victim compensation, are funded.
West Virginia:	$3 Penalty assessment on each conviction or guilty plea to misdemeanors and felonies other than non-moving traffic violations. Goes to $4 on 7/1/88.
Wisconsin:	General revenue.
Wyoming:	General revenue and penalty assessments.

MOST STATES, WHEN AMENDING THEIR STATUTES TO INCLUDE DRUNK DRIVING CRASH VICTIMS, HAVE SIMPLY INCLUDED DRUNK DRIVING CAUSING DEATH OR INJURY IN THE DEFINITION OF CRIMINALLY INJURIOUS CONDUCT.

EXAMPLE: "Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle except when the person engaging in the conduct intended to cause personal injury or death, or except when the person engaging in the conduct is shown under this article to have committed negligent homicide driving under the influence of alcohol, controlled substance or drugs or reckless driving." (South Carolina)

OUR TOWN

Family Center
Helping Families Help Themselves

Youth Crisis Service

Much time and effort has gone into discussing, defining and shifting of responsibility for children who are away from home without the knowledge or permission of their parents. Missing, runaway, abducted, homeless, throwaway and system kids are only some of the categories currently used to sort out the over one million children at risk in our nation. Federal monies are spread throughout various departments, focusing on specific issues or problem areas. In regard to funds received locally from the Office of Juvenile Justice Planning and Delinquency, The Missing Children's Act and the Runaway and Homeless Youth Act a coordinated cooperative effort has begun. The use of a Task Force Model involving local law enforcement, social service agencies and juvenile court has resulted in better communication and more effective programs for missing, runaway and homeless youth.

The positive results of the task force model are many and translate down to a more effective handling of each and every case of child abduction and runaways in our community. Our model is effective also because it provides a mechanism for encouraging working together, recognizing jurisdictional, political and operational roadblocks in developing a comprehensive plan for assessing, intervening and referral of youth and families. It is believed that by using the most appropriate services which are most likely to reduce runaway behavior and by providing other alternatives to resolving problems, runaways and abductions can be reduced. Insetting down clear lines of understanding as to which agency is responsible for what services and which services should be and can be provided based on the desire of the total local community, not just the desire of one group or the cheapest way out, appropriate services can be developed. A total community response is more likely to be followed up by and supported by the resources and commitment necessary to insure a good plan is developed. We feel strongly that this approach is much more effective in developing a workable, realistic model based on community values and networking of existing law enforcement, juvenile court and social services.

Dennis W. Noonan, M.S.W.
Executive Director

Youth Intervention Program • Missing Children's Program • Safe Place
24 Hour Crisis Intervention Phone Line • Crisis Intervention Training Workshops
Substance Abuse Prevention Program
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United Way

TUCSON TASK FORCE EXPERIENCE

ON A RUNAWAY/MISSING CHILD PROGRAM MODEL

In 1985, in an attempt on the part of the Pima County Sheriff Office to be more effective in handling cases of missing/runaway children, an approach was developed which provided for a more comprehensive community response to the problems facing the missing/runaway youth.

The problems were presented as:

A) Cases of runaway/missing youth were low priority and because 98% of youth returned home law enforcement saw no reason for changing procedures.

B) Abduction and murder of three children over the past two years and increased local and national attention to the problems of child abuse had put pressure on all child welfare organizations to do more to protect our children.

C) Cases of missing/runaway youth reported by parents to law enforcement were not followed up on and remained open records after original report was filed.

D) Responsibility for the missing/runaway population was unclear. Law enforcement, child protective services and juvenile court had no consistent policy to handle these youth.

E) National and local media reports and statistics pointed to the level of abuse, depression and future exploitation of these youth. The reasons why youth runaway, the cost of repeated runaway cases and coordinated efforts necessary for stopping the problems were sought.

F) Programs in prevention and intervention were begun in many organizations. No coordination, communication or networking existed to insure quality, effectiveness and non-duplication of services.

In response to the above noted problems, representatives of the Pima County Sheriff's Office, OUR TOWN Family Center and the County Attorneys Office met to discuss alternatives. The scope of the group membership was expanded to include Tucson Police Department, juvenile court, Tucson school district and several youth shelters and organizations. This group became the Task Force for Missing and Exploited Children. The informal structure and shared responsibility of the group allowed for positive interaction which resulted in effective efforts in:

assessing the local needs,
developing interventions,
clearing up issues of jurisdiction and territoriality
networking within the ability of existing resources to address
the problems and offer viable , cost effective solutions.

The Task Force model was presented with visible community support at a press conference where the County Attorney, Chief of Police, Mayor of Tucson, Pima County Sheriff offered endorsement and in-kind support for the efforts. Since that time the Task Force has met monthly in committee or general meetings. The efforts of the Task Force are separated to focus on coordinated training efforts, legislative and operational changes to better handle cases of children, program development of effective approaches to handling cases and supportive financial and other services to families victimized by abduction. The efforts of the Task Force have resulted directly in:

A) Financial and direct support to over fifteen cases of abduction in Pima County. (Air fare, etc.)

B) Changes in the local response to handling reports (ie change in the 24 hours reporting rule in runaway cases).

C) Development of (KIDS) a four site computer network being designed to insure assessment, intervention and follow-up on local cases of runaway/missing youth. Sites at the sheriff office, police department, juvenile court and OUR TOWN Family Center track local runaway cases from report to closure being sure intervention and assessment are provided. The funding for the Network was provided by the Department of Public Safety and AT&T.

D) Two annual state-wide conferences on issues surrounding high risk youth. Workshops cover areas on investigation, intervention, social services, networking and community development. This year's conference focused on custodial abduction and brought speakers in from I-SEARCH and the National Center for Missing and Exploited Children.

E) The development of a comprehensive-community response to runaway/missing children. All first and second time reported runaway cases are referred by either of the two law enforcement agencies to OUR TOWN Family Center's Missing

Children Program. The youth and parent are interviewed separately either in person or by phone, in their home or at our office. A format for the interview is used to allow for questions designed to assess reason for the runaway, possible physical/sexual abuse, substance abuse, sexual activity (Aids risk), depression (suicide) of youth. Referral of family/youth to appropriate community resources are made and a follow-up plan explored. Interview/assessment is provided by staff/volunteer teams trained in crisis intervention and assessment techniques. Cases are the responsibility of the Pima County Juvenile Court. OUR TOWN Family Center provides intervention services for the court and has a court liaison worker assigned to OUR TOWN Family Center full-time. Paperwork on the interview is forwarded to the court through the assigned liaison worker. Basic information entered in the computer on the level of risk (high, medium, low) of the youth is logged in case of future runaway occurs and to ensure closure of services to the family is recorded.

F) Face to Face interaction by staff workers/supervisor on specific cases and on general needs of youth and family are more easily handled due in large part to the regular meeting and shared goals of providing effective, consistent services. The goal is to the repeated runaway behavior and insure early intervention and assessment to high risk families.

The accomplishments of the Task Force Model as it currently operated in Tucson, Arizona reflects the priorities and commitment of the Tucson community to address the problems of missing and exploited youth. OUR TOWN Family Center has provided crisis intervention assessment to families/youth since 1979. Existing community services and the family's own social and financial resources are used. Families are helped in developing a process of handling their own problem with support of outside groups especially focussing on avoiding unnecessary juvenile court, law enforcement and more expensive psychiatric services. Our program attempts to help the family help themselves. Over our past nine years less then five percent of youth referred on runaway behavior were placed in youth shelters. We hope to avoid the mixed message to youth by encouraging youth to running away from their problems; when not appropriate, by putting child in shelter or getting parent in trouble by forcing court appearances or embarrassment when the problem is family-based, not criminal. The message is clear:

A) In most cases, the family is the most effective unit to resolve the problems it faces.

B) Neither parent or child is singled out as the "problem". The resolution is based on helping all members of the family help resolve the problems.

C) The community either needs to use existing community resources or develop appropriate resources to help handle the problems facing youth, not turn police, courts and attorneys into social service providers.

D) Communication - inter-family, inter-personal, inter-agency - is the key to reducing runaway and exploitation of youth in our community.

E) Give families and community the opportunity to assess their strengths and weaknesses and a plan on how to resolve or deal with the problems it faces will result.

Our approach does not discount the serious problems facing many families and communities. Violent youth crimes, mental illness and seriously dysfunctional families need help. The majority of federal, state and local resources go to services to these groups. If we are to slow the flow of youth into adult correctional facilities, residential mental health hospitals and welfare roles, we must address and provide for early intervention. The coordinated delivery of basic services of support, education and intervention most likely to strengthen the ability of individuals, families and communities to accept responsibility and access the resources to help strengthen them to help themselves needs to be the focus of our efforts.

The data compiled is basic but provides some insight into the problems facing youth in Tucson, AZ. The comparison statistic sheet reflects the data for January 1986 to January 1987. The Crisis Program clients are referred by families, youth, school counselors or other social service agencies. This population reflects higher level of dysfunction and more multiple problem situations. The Missing Child Program clients are all reported runaway cases referred to our agency by law enforcement organizations. They are first and second time runaways referred by parents to police. High levels of violence and substance abuse coupled with the problems of single parenting and poor interfamily communication are reflected in our data. Programs geared to support families with the type of programs which encourage positive interaction through support groups, family activities and crisis intervention services is and important first step to resolve the problems facing these families. The efforts of law enforcement and social services to work together with clear areas of responsibility can help the community develop programs to help families connect with effective services to deal with the problems rather than the use of law enforcement as the short-term answer to an escalating family problem.

OUR TOWN
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COMPARISON OF YOUTH CRISIS PROGRAM VS. MISSING YOUTH PROGRAM

TUCSON, ARIZONA

JANUARY 1, 1986 to JANUARY 1, 1987

	1400 Families Crisis Program	1200 Families Missing Child Program
Age/Years	%	%
0-5	8%	.3%
6-8	10%	.7%
9-10	6%	3%
11-12	10%	7%
13-14	22%	32%
15-16	33%	45%
17-18	11%	10%
19 plus	--	--
Sex		
Female	51%	60%
Male	49%	40%
Ethnic Group		
Anglo	66%	75%
Hispanic	29%	20%
Black	4%	4%
Native American	.5%	.4%
Other	.5%	.6%

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FAMILY STRUCTURE	CRISIS PROGRAMS		MISSING CHILD	
Biological Parent	22%		23%	
Biological Mother/Step-father	13%		14%	
Biological Mother Only	49%		37%	
Adopted Child	2%		3%	
Biological Father/Step-mother	3%		5%	
Biological Father	6%		7%	
Relative	2%		2%	
Other	3%		7%	
FAMILY PRESENTING PROBLEM				
Drugs				
Parent	2%	13%	.03%	7.3%
Child	11%		7%	
Alcohol				
Parent	6%	18%	3%	10%
Child	12%		7%	
FAMILY VIOLENCE				
Parental Child Abuse	20%	32%	9%	11%
Child to Parent Abuse	8%		.09%	
Spouse Abuse	4%		1%	
SEXUAL ABUSE	9%		5%	
PARENTING ISSUES				
Discipline	52%		29%	
Communication	57%		27%	
Pregnancy	2%		.07%	
Truancy	9%		6%	
Depression/Suicidal	12%		4%	
Runaway	18%		100%	

#B

The Missing Children's Program at OUR TOWN Family Center (formerly Family Crisis Service) has been operating in Pima County since November 1985. The following data has been compiled for the years 1986 and 1987.

	1986	1987
TOTAL CASES:	1375	1078
Cases handled by OTFC:	910 - 66%	754 - 70%
* Cases paper handled:	465 - 34%	324 - 30%
Gender: Male	453 - 33%	379 - 35%
Female	933 - 67%	699 - 65%
Referred by:		
Tucson Police Department	817 - 59%	738 - 68%
Pima County Sheriff Office	524 - 38%	321 - 30%
Other Law Enforcement Agencies	34 - 3%	19 - 2%
YOUTH & FAMILIES INTERVIEWED:	844	705
Physical referral at Pima Juvenile Court Center	105 - 12%	61 - 9%
Appointments Home/Office	521 - 62%	479 - 68%
Phone Interviews	218 - 26%	165 - 23%
Physical Abuse Total:	139 - 16%	179 - 25%
Past History	107 - 77%	140 - 79%
Current	32 - 23%	39 - 21%
Sexual Abuse Total:	125 - 15%	143 - 20%
Out of Home Molest	** 64 - 51%	82 - 57%
Past History	** 54 - 84%	74 - 90%
Current	** 10 - 16%	8 - 10%
In Home Molest	** 61 - 49%	61 - 43%
Past History	** 51 - 84%	48 - 79%
Current	** 10 - 16%	13 - 21%
Suicide Total:	95 - 11%	183 - 26%
Past History	** 64 - 67%	138 - 75%
Current	** 31 - 33%	45 - 25%

* Receiving services through Pima County Juvenile Court Center or Child Protective Services/Department of Economic Security.

** Statistics reflect data gathered 7/86 through 12/86.

1. WHAT IS THE MISSING CHILDREN TASK FORCE?

The MCTF is a vehicle to coordinate existing services and to develop new resources to meet the needs of missing children of all types---runaway, throwaway, non-custodial abduction, stranger abduction.

2. WHAT AGENCIES ARE INVOLVED IN THE MCTF?

Tucson Police Department
Pima County Sheriff's Department
South Tucson Police Department
Pima County Attorney's Office
Pima County Juvenile Court
Child Protective Services-DES
Parents of Murdered Children
Concerned businesses
Family Crisis Service
88-CRIME
OPEN INN
La Hacienda
We The People
Springboard
Concerned legislators

3. GOALS OF MCTF

A. To assist families to be responsible for their children through education and awareness; by providing agency referrals, providing training in developing problem solving skills.

B. Research data on missing children and determine causes that lead to runaway and throwaway kids so that we can establish direction for the future.

C. Develop new resources in the community to meet the needs of these children and their families.

D. Develop legislation to address law enforcement and social services needs.

4. USE OF FUNDING

A. Provide short term emergency shelter
B. Professional training
C. Emergency travel funds for abducted children

5. IMMEDIATE RESULTS

A. For the first time, a major communication network between all law enforcement and social service agencies dealing with missing children has been established. All agencies are working together to address the needs of these children and their families.

B. The Police Department and Sheriff's Department have established specialized units of investigators to locate all categories of missing children. They are also working toward establishing an educational program for school children on problem solving and the risks of being on the streets through the School Resource Officer Program.

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OUR TOWN

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COMMENTS ON FEDERAL RUNAWAY HOMELESS YOUTH FUNDS

The focus of OUR TOWN Family Center (OTFC) in providing crisis intervention and runaway services to over 10,000 families over the past nine years is helping youth and families to help accept responsibility and help themselves. Tucson as a community has always been service oriented. OTFC has used the desire of the community to help in referring families in need to existing social service agencies. Using staff and volunteer teams we meet with families experiencing problems such as runaway, school problems and depression. We stress the diversion of youth away from juvenile court, law enforcement, inappropriate unnecessary psychiatric services and over- utilization of shelter services by youth best served by home-based services.

Runaway behavior is often a signal of other problems in home life, school life or social life of youth and families. Effectively tying together youth service organizations - not just shelter organizations - allows for the utilization of both shelter and effective non-shelter agency's programs. Instead of expanding the scope of shelters to provide other outreach services which they may not be qualified to provide, efforts should be made to develop local networks tied to regional networks to provide a model of services based on child/family needs, not just a single agency's (shelters) ability to provide services. Joint proposals, community assessments, networking techniques and staff training on relevant issues should be provided. The shelter agency should not be expected to develop an AIDS prevention training program in their spare time. A local network can provide education and training on how to develop operational procedures around AIDS based on community and shelter needs and expertise of other community groups. Money for basic centers providing basic services around counseling and shelter services should be separated. Additional services such as outreach crisis intervention, independent living, child abuse prevention, suicide assessment, mediation etc., while effective and necessary should not be forced to be developed by shelter agencies because the funding is available only to shelters. The damage of an open process of involving groups who only remotely provide services to youth or focus only on a very specific problem or different

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target group of youth in need might develop programs not responsive to runaway/homeless youth populations. An effective alternative might be a community task force model composed of youth/family service providers, law enforcement, juvenile court and school officials. The representation of basic shelter grantees, as well as other federally funded youth programs should provide for more comprehensive approaches to runaway youth and family services. The coordination of services and the communication between all youth service groups should be encouraged rather than the division of providers as they compete for limited funds, too often in areas which they are not qualified to develop effective interventions or in areas which duplicate existing community programs.

Professional coordinated networks like the National Network for Runaway and Homeless Youth Centers should be expanded in scope to offer information on effective models for working with youth. They should coordinate efforts to upgrade training of shelter staff and also encourage development of local and regional groups to share information, assess needs and maintain the local community's right, responsibility, and ability to develop programs based on each communities needs, not one or two agencies own perception of needs or desire for funding. The current level of service has come a long way in meeting the needs of runaway/homeless youth with limited resources. More funding, more effective use of other youth agencies who serve runaway youth, and encouragement of community networking and ownership of the problems and solutions should be the focus of future planning for funding programs.

COMMENTS ON MISSING CHILDREN FEDERAL PROGRAMS

Communities should be allowed to develop their own plan for how to handle cases involving missing/exploited children. The setting up a local computer clearing house is a questionable duplication of services since a modum and appropriate software can tie the National network already funded to gather information and existing criminal justice computer tracking systems together. A better use of funds might be to require local communities to develop a plan to coordinate services and response to missing/exploited children issues with an intervention, assessment, and treatment model. The model would be most effective if it involved a committee [task force] composed of law enforcement, juvenile justice, social service providers and other appropriate community groups to access current services, laws and the community's desire to provide services. Communities should also be expected to provide some of the existing Federal OJJDP funds to these services and match with non-federal cash funds and in-kind staff and resources for shared training, office use, staff meeting time etc. Money should be made available to help coordinate and network existing services. Money should then be set out for pilot programs for treatment and other issues focusing on reducing the possible future victimization of child or family such as effective efforts to handle custodial abduction prevention by use of community mediation in child custody matters; support groups for parents.

The training of local groups and the focus of the national conference should be to utilize current effective techniques to investigate, prosecuting, accessment, prevention and provision of treatment services. The scope of services should be approached from a "total" network of needs and services and the interaction of all groups should be encouraged and taught. At this time, communities have social service organizations attempting to investigate and track cases, private investigators charging large fees for tracking and re-abducting children back for parents, law enforcement providing counseling services. Clear line of responsibilities, good communication and networking to provide direct messages to parents, youth, the line officers and staff on how to work with a system of services, not around it, should be the goal. No system is perfect but effectiveness can be improved, community involvement and responsibility encouraged and more cost effective use of existing community resources encouraged.

Money provided to coordinated networks, not just law enforcement or just non-profits should be available. Task Forces balanced by community, legal, social service groups should provide for distribution of funds and development of programs. Training should be provided on community development of Task Force models active in many areas of youth issues, not just a rubber stamp for local governmental groups who assign members to the Task Force.

SEARCH GROUP Inc.

TESTIMONY OF GARY D. McALVEY, CHAIRMAN, SEARCH GROUP, INC. BEFORE THE SUBCOMMITTEE ON THE COURTS AND ADMINISTRATIVE PRACTICE OF THE COMMITTEE ON THE JUDICIARY OF THE SENATE

May 13, 1988

Senator Howell Heflin (D. Ala.)

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, my name is Gary D. McAlvey, and I am a Bureau Chief in the Bureau of Identification, Illinois State Police. I am submitting this testimony in my capacity as Chairman of SEARCH Group, Inc. ("SEARCH").

SEARCH commends the work of the Chairman of the Judiciary Committee, Senator Joseph R. Biden, Jr. (D. Del.), and the Subcommittee Chairman, Senator Howell Heflin (D. Ala.), on S. 1250, the Criminal and Juvenile Justice Partnership Act. Our testimony addresses Title III, Subtitle A, the Justice Assistance Act Reauthorization and Subtitle E, the Criminal Justice Information Improvement Act. Further, with respect to Subtitle A, our testimony deals, in particular, with the work of the Bureau of Justice Statistics ("BJS"), and the Bureau of Justice Assistance ("BJA").

The National Consortium for Justice Information and Statistics
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GARY D. MC LVEY, Chairman
GARY R. COOPER, Executive Director

These agencies are small and, I suspect, unknown to most Americans. However, they make a vital contribution to our understanding of the nature and extent of crime and the operation of the criminal justice system; to the development of new initiatives in the fight against crime; and to the demonstration and implementation of crime fighting measures at state and local levels that have proven to be effective.

SEARCH GROUP, INC.

SEARCH, the National Consortium for Justice and Information Statistics, is a unique, national organization operated by the states to represent their interests in matters affecting the development of criminal justice information policy, information systems and statistical programs. SEARCH is governed by a Membership Group consisting of governor-appointed senior officials from all fifty states. In addition to its fifty state members, SEARCH has assembled a national "network" of hundreds of state and local criminal justice practitioners from all disciplines within criminal justice to assist the Membership Group in setting SEARCH's agenda and in communicating with state and local criminal justice agencies.

SEARCH's revenue comes from dues paid by the states, from grants and contracts with BJS and BJA and, to a lesser extent, other federal agencies, from contracts with numerous state and local criminal justice agencies and from private foundation grants. SEARCH functions through a Board of Directors elected by the Membership Group, and through a professional staff headquartered in Sacramento, California. SEARCH is incorporated as a private, not-for-profit organization under the laws of the State of California.

BJS' AND BJA'S MISSION AND ACTIVITIES

BJS was established in 1979 and, in a sense, is the successor to the National Criminal Justice Information and Statistics Service (NCJISS), -- one of the components of the now defunct Law Enforcement Assistance Administration ("LEAA"). In another sense the establishment of BJS represents the culmination of over a half century of effort by scholars, criminal justice practitioners and the Congress to create an independent, objective national center for criminal justice statistics and information.

Much of BJS' emphasis is on the collection and analysis of national statistics for the periodic production of major crime surveys, including national victimization statistics, prisoner statistics, court statistics and parole and probation statistics. However, in creating BJS, the Congress directed that BJS "shall give primary emphasis to the problems of state and local justice systems" and "shall utilize to the maximum extent feasible state governmental organizations and facilities responsible for the collection and analysis of criminal justice data and statistics."

Moreover, BJS's statutory charter states that it is BJS' purpose, "to support the development of information and statistical systems . . . to measure and understand the levels of crime . . . and the operation of the criminal justice system . . . ." 42 U.S.C. § 3731.

Accordingly, BJS devotes considerable attention to information systems, information policy and research and statistics matters at the state and local level.

BJA was established in 1984 to provide monetary and other assistance to states and units of local government. P.L. 98-473 Oct. 12, 1984, 42 U.S.C. § 3741. BJA is authorized to fund, "programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on violent crime and serious offenders." 42 U.S.C. § 3743. BJA dispenses both block grant funds to the states on the basis of population, and discretionary grant funds to states, units of local government and not-for-profit organizations.

BJA' charter identifies 18 priority program areas, including neighborhood watch programs, arson, white collar crime, career criminal and alternatives to pre-trial detention. One of BJA's priority program areas explicitly involves criminal justice information matters: "Providing for operational information systems . . . which improve the effectiveness of criminal justice agencies," 12 U.S.C. § 3743(a)(12). Other BJA priority programs indirectly involve areas of importance for information systems, information policy and statistics. For example, BJA is authorized to "provid[e] training, management, and technical assistance to criminal justice personnel . . .;" 42 U.S.C. § 3743(a)(10).

Substantial parts of SEARCH's charter and mission are coextensive with parts of BJS' and BJA's charter and mission. SEARCH began in 1969 as a ten-state project to develop a system for the automated, interstate exchange of criminal history records. Today, SEARCH's efforts are concentrated in three areas involving criminal justice information systems and criminal justice information policy: (1) developing and supporting state and local criminal justice information systems; (2) research, publications and advocacy with respect to law and policy, including privacy and security issues, for criminal justice information and information systems; and (3) analysis with respect to the use of criminal justice information for research and statistical purposes.

Criminal Justice Information Systems

The Congress and the Executive have long recognized the important stake that the federal government has in the development of state-of-the-art, state and local criminal justice information systems. For example, the report of the Senate Judiciary Committee to accompany S.951, the Department of Justice

Authorization Act for FY-82 stated, ". . . the Committee is concerned that state-based criminal justice information systems, information policy development, and statistical programs continue to be supported by the department." Just the year before, the Attorney General's Task Force on Crime recommended that additional resources should be available to BJS to fund "the design and development of state and local statistical information systems."

The statutory charters for both BJS and BJA call for those agencies to support the development of state and local criminal justice information systems. As noted earlier, one of BJS' express purposes if to "support the development of information . . . systems." 42 U.S.C. § 3731. In addition, BJS is authorized to, "provide for the development of justice information systems programs . . . relating to the collection, analysis or dissemination of justice statistics". 42 U.S.C. § 3732(c)(13). BJS is also authorized to encourage the replication of justice information systems so as to ensure that the collection, analysis and dissemination of justice statistics is carried out in a coordinated manner. 42 U.S.C. § 3732(d)(5). As noted earlier, BJA is authorized to "provid[e] for operational information systems and workload management systems which improve the effectiveness of criminal justice agencies". 42 U.S.C. § 3743(a)(12).

SEARCH designs and develops state-of-the-art criminal justice information systems. However, SEARCH does so only in those circumstances where we perceive that there is a significant need for the system in the criminal justice community and where the private sector is unlikely to meet this need in a comprehensive or effective manner. Once developed, SEARCH's systems are placed in the public domain for use or further development, without restriction.

SEARCH has designed information systems for both BJS and BJA. Those systems that SEARCH has designed for BJS place a strong emphasis on the collection and analysis of statistical information, in keeping with BJS' statistical mission. Examples of systems which SEARCH has designed include a judicial information system, a state corrections system and a standardized crime reporting system for local law enforcement. Examples of SEARCH systems, which involve not only design work but also software and related documentation, include a prosecutors management support system for BJA and a criminal history record system for small to medium state repositories for BJS. The latter system includes a state-of-the-art statistical output package.

The benefits that flow from BJS' and BJA's system development efforts are substantial. For state and local agencies, these systems enable officials to meet their responsibilities effectively and efficiently. In particular, these systems provide reliable and timely information needed for operational decision making. Further, these systems make it possible for state and local agencies to acquire more comprehensive, more compatible and more useful information for state and national statistical reporting purposes. And, these systems assist the federal government, which is the largest consumer by far of criminal history record information and other criminal justice information, to obtain this information in a cost-effective, timely way.

BJS and BJA are also authorized to provide for technical assistance for criminal justice information systems. BJS is authorized to provide technical assistance to states and units of local government so as to promote the coordination and replication of information systems. 42 U.S.C. § 3724(d)(5). BJA is charged with "providing technical assistance to states and local units of government." 42 U.S.C. § 3761(a)(2).

For nearly two decades, SEARCH has provided technical assistance to state and local criminal justice agencies to assist them in the implementation and use of criminal justice information systems. This technical assistance may include an analysis of software and hardware requirements, cost benefit analyses, the design of system specifications, and software transfer assistance. Under a BJS grant, SEARCH provides technical assistance by telephone or through the mails with respect to statistical applications. Under a BJA grant, SEARCH provides on-site technical assistance with respect to operational applications.

In the last 14 years, we estimate that SEARCH has provided technical assistance in response to over 10,000 requests. Technical assistance makes a major contribution to the effectiveness, reliability and compatibility of the nation's criminal justice information systems.

Both BJS and BJA are authorized to provide training in connection with statistical and operational applications respectively in information systems. BJS has statutory authority to encourage the sharing among justice agencies of data regarding information systems and statistics. 42 U.S.C. § 3724(d)(5). BJA has authority to "provide financial assistance to public agencies and private non-profit organizations for purposes of undertaking education and training programs for criminal justice personnel." 42 U.S.C. § 3761(a)(1).

SEARCH operates an extensive training program for state and local agency officials in the operation of criminal justice information systems. Under BJS grants, SEARCH does statistically oriented training. For example, current SEARCH courses include a course entitled "Computers and Statistics for Criminal Justice." Under BJA grants, we do operationally oriented training. For example, current offerings include a course entitled "Using Computers in Law Enforcement."

The heart of SEARCH's training program for both statistical and operational applications is the National Criminal Justice Computer Laboratory and Training Center at SEARCH headquarters in Sacramento. The Laboratory and Training Center is configured with twenty-four networked microcomputers, and a minicomputer. The great bulk of this hardware was donated to SEARCH by private sector firms. The Training Center is also supported by a library of software applications and other technical support materials. In the last year alone, SEARCH provided training to approximately 630 law enforcement officials from over 25 states. Training activities in the Center are supported by grants from both BJS and BJA. Recently, BJA announced that SEARCH and the Criminal Justice Statistics Association will receive a grant from BJA to establish a computer laboratory and training center on the East Coast.

It is no secret that the key to the effective operation of information systems is training. Therefore, it is appropriate, indeed it is critical, that both BJS -- with respect to statistically-oriented applications -- and BJA -- with respect to operationally-oriented applications -- provide leadership and assistance for training.

Finally, with respect to information systems, both BJS and BJA support the dissemination of educational and other relevant information. BJS has authority to encourage information sharing among criminal justice agencies regarding information systems, information policy and statistics. 42 U.S.C. § 3724(d)(5). BJA has authority to "undertak[e] educational and training programs for criminal justice personnel;" 42 U.S.C. § 3761(a)(1).

Under a grant from BJS, SEARCH operates the National Clearinghouse for Criminal Justice Information Systems. Through the Clearinghouse, SEARCH disseminates relevant research and other educational materials about information systems throughout the nation. For example, SEARCH has most recently conducted and published research regarding Automated Fingerprint Identification Systems ("AFIS"). In addition, SEARCH is about to publish a comprehensive text regarding the use of microcomputers in criminal justice. The text includes an identification of over 300 separate microcomputer packages.

As a part of the Clearinghouse, SEARCH also operates the Automated Index of Criminal Justice Information Systems, containing information about over one thousand public domain, operational justice information systems in over seven hundred agencies. The Clearinghouse also includes an automated index of microcomputer software. To date over three thousand index searches have been performed.

SEARCH is also in the final testing phase of SEARCH's Criminal Justice Information Bulletin Board. The Bulletin Board will provide criminal justice practitioners with information about criminal justice information systems, policies and statistics on an automated real-time, on-line basis.

Criminal Justice Information Law and Policy

In addition to activities aimed at developing and supporting criminal justice information systems, BJS is also authorized to develop and disseminate research and data with respect to criminal justice information policy and privacy and security. BJS' charter calls for BJS to:

> [E]nsure conformance with security and privacy requirements of Section 812 [the provision at 42 U.S.C. § 3789g(b) which requires most state and local agencies operating criminal history record information systems to meet standards for data quality, confidentiality and security] and identify, analyze and participate in the development and implementation of privacy, security and information policies which impact on federal and state criminal justice operations and related statistical activities. . . . 42 U.S.C. § 3732(c)(18).

Through SEARCH, this effort takes two forms. First, SEARCH conducts extensive research with respect to information policy issues and disseminates the results of that research throughout the criminal justice community and to other relevant audiences. There are numerous examples. SEARCH periodically reviews state statutes governing the collection, maintenance and dissemination of criminal history record information and publishes a compendium of such statutes. As another example, SEARCH periodically surveys the state criminal history record repositories (in many states the repository director is a member of SEARCH) in order to identify and measure activities in the repositories. As a further example, SEARCH periodically reviews case law that bears on the handling of criminal history record information and publishes analyses and findings.

SEARCH has produced a number of books for BJS about criminal justice information policy issues, including books on media access to criminal history record data; private employer access to this data; the quality of criminal history record data; policies with respect to intelligence and investigative records; policies with respect to "hot file" information; and policies with respect to juvenile justice record information. Currently, SEARCH is conducting additional research with respect to juvenile justice records and record systems and will publish a report in 1988.

As a part of the BJS/SEARCH information policy effort, SEARCH and BJS sponsor national conferences on information law and policy topics, such as media access to criminal history data, the accuracy and completeness of criminal history data and criminal justice information policy. In fact, next week SEARCH will conduct a national conference that will focus on the open records debate. Senator Patrick Leahy (D-Vt.) will be the keynote speaker and the conference will be held in the Rayburn Building.

To assist SEARCH in its research and publications effort for BJS, SEARCH maintains the Criminal Justice Information Resource Center at SEARCH headquarters in Sacramento. The Center houses one of the nation's most extensive libraries of publications about criminal justice information law and policy, as well as an extensive compilation of state statutes, judicial opinions and descriptions of procedures with respect to criminal justice record information.

Second, SEARCH's information law and policy activities for BJS involve the development of standards and other types of model provisions. For example, SEARCH is currently developing new model standards for state and local criminal justice agencies with respect to the accuracy and completeness of criminal history records, and the dissemination of these records. SEARCH's original model standards, published in 1975, had a profound impact upon law and practice with respect to criminal history record information.

Research and Statistics

Naturally, research and statistical activity is an integral part of BJS' mission. BJS is expressly authorized to collect and analyze statistical information concerning the nature and incidence of crime and the operation of the criminal justice system at the federal, state and local levels. 42 U.S.C. § 3732(c).

Under grants from BJS, SEARCH conducts research to assist in the development of accurate measures of crime, criminality and criminal justice system performance. SEARCH's work emphasizes the potential of the criminal history record as a source of statistics about crime and, in particular, career crime patterns and system responses. For example, SEARCH's efforts for BJS include longitudinal studies using criminal history records in order to obtain detailed information about offender populations, the development, prediction and termination of criminal careers and the changing structure of active offending populations.

In addition, through funding from BJS, SEARCH has pioneered in developing Offender Based Transaction Statistics ("OBTS") from the criminal history record. OBTS provides detailed information about the operation of the criminal justice system by permitting researchers to track the progress of an offender through the system. Finally, under BJS grants, SEARCH supports the redesign of the Uniform Crime Reporting program ("UCR program"). The UCR program is currently being redesigned so that its statistics are event-based (rather than aggregate based) and so that the UCR program provides substantially greater amounts of information about key elements of crime such as the relationship between drugs and crime.

What kind of picture of BJS and BJA emerges from this review of BJS' and BJA's activities undertaken in partnership with SEARCH? With respect to BJS, it is clear, in our view, that BJS, through its partnership with SEARCH, provides leadership and assistance to state and local criminal justice agencies in systems development; in technical assistance; in training; and in the dissemination of vital information. In the absence of BJS' leadership and assistance the nation's criminal justice information systems would be far less able to develop in ways that provide reliable, compatible and comprehensive statistics, and information about crime and the operation of the criminal justice system.

BJS, through its partnership with SEARCH, also provides leadership and assistance in the development of policies and practices that improve criminal history records and other criminal justice records. In turn, these records improve the nation's ability to measure and understand crime; enhance the operation of the criminal justice system; and protect the privacy and security interests of record subjects and victims. Further, BJS, through its partnership with SEARCH, provides leadership and assistance for the development of statistics from criminal history records and leadership for the redesign of the UCR program. The nation's understanding of the nature and extent of crime and the operation of the criminal justice system is much enhanced through BJS' leadership and assistance.

Similarly, BJA, operating in partnership with SEARCH and through SEARCH, provides leadership and assistance to state and local criminal justice agencies in the use of operational criminal justice information systems. But for BJA's leadership and assistance, state and local information systems, simply stated, would not operate as effectively; or in a manner that takes full advantage of national research and experience; or in a manner that facilitates the effective and appropriate national exchange of information.

How successful then have these agencies been in discharging their information functions? We believe very successful, indeed. Over its brief life BJA has achieved a substantial record of important accomplishment. And BJS has emerged over the last four years as one of the most striking success stories in criminal justice.

The relationship between BJS and BJA and state and local criminal justice information practitioners requires a delicate balance. Criminal justice information systems and policy matters involve technical and interrelated issues that require federal support and leadership. To be successful, federal agencies must respect state and local perogatives, while creating a coherent national network. BJS and BJA have accomplished this. In the absence of these agencies, state and local practitioners would be left to make decisions on a fractured, piecemeal and ultimately ineffectual basis.

We believe that the success of these agencies is due in part to the structure established by the Congress, thanks in no small measure to the Chairman's leadership. That structure helps these agencies to operate with independence and integrity and helps to underscore the importance of their mission. We also believe that their success, in part, is due to the leadership and dedication of their officers and employees, from top to bottom. We further believe that their success, in part, is due to their emphasis on close and effective communication with, and participation by, the state and local criminal justice information community. SEARCH, and the state and local criminal justice practitioners who comprise the criminal justice information community, are pleased to be a part of that effort.

THE CRIMINAL JUSTICE INFORMATION IMPROVEMENT ACT

Based on all of this, is it therefore our conclusion that no changes should be made in the functions of these agencies? No.

Rather, -- without tampering with the structure or organization of these agencies -- we urge the Committee to report Subtitle E, the Criminal Justice Information Improvement Act. Subtitle E would establish in BJS a national priority program to improve the accuracy and completeness of criminal history record information. BJS already supports some amount of work to improve the quality of criminal history record information. However, far more needs to be done and it cannot be done without this legislation.

Criminal history record information is a key to understanding the nature and the amount of crime, particularly career crime, and to devising programs to combat crime, especially recidivism and violent crime. Criminal history records have been described as the most widely used type of criminal justice information. These records are used in statistical and research work; in judicial decisions, such as sentencing and bail; in law enforcement and investigative decisions; increasingly in critical governmental noncriminal justice decisions such as the award of security clearances; and increasingly in critical private sector decisions for employment, insurance and credit. Criminal history records simply must be accurate, complete and timely -- and at present they often are not.

Mr. Chairman, The Criminal Justice Information Improvement Act enjoys bipartisan support in the House, and insofar as we can determine, unanimous and enthusiastic support throughout the criminal justice community. It would authorize for appropriations a modest amount of money (five million dollars in each of five years) but, more importantly, it would signal a federal commitment to leading the effort to improve the quality of these records. Moreover, we now know how to improve the quality of criminal justice information -- it's been done in several places. Accordingly, even modest amounts of federal money can be closely and effectively targeted.

On behalf of SEARCH, its 50 gubernatorial appointees, and the thousands of state and local criminal justice information practitioners who comprise the SEARCH family, I want to thank you for the opportunity to describe BJS' and BJA's accomplishments from a state criminal justice perspective and the opportunity to describe the important contribution that the Criminal Justice Information Improvement Act can make.

O